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Supreme Court of the United States.

OCTOBER TERM, 1917.

No. 311.

ALEX. D. SHAW & Co. *et al.*,
Petitioners,

v.

THE UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
CUSTOMS APPEALS.

BRIEF FOR PETITIONERS.

MAY IT PLEASE THE COURT:

Four ordinary English words stand out prominently as the pith of this case.

They are: Allowance, Bounty, Drawback, Grant.

Whatever may be the Dictionary or Judicial definitions of these four words, no one can deny that there is *some* difference between the meaning of each of these words and that of every one of the others.

The task of this Court will be to determine whether Congress, in an Act which contains only *two* of these four words meant to include the *other* two for the purpose of imposing a Counter-vailing duty on British spirits.

We think we could hardly begin better than by quoting that well-known remark of Mr. Justice Swayne in *Smythe v. Fiske*, 23 Wallace, 374 (380):—"A thing may be within the letter of a statute and not within its meaning, and within its meaning, though not within its letter. The intention of the lawmaker is the law."

Brief History of the Case.

There is no dispute about the facts.

1860. Great Britain, under the Cobden treaty with France substituted a somewhat comprehensive Free Trade policy for the then existing Protective Tariff system. This threw upon the British Government the burden of raising by Internal Revenue that large portion of its revenue which had come from Import Duties.

The British Act by which this was attempted is known as 23 and 24 Victoria, Cap. 129, dated August 28, 1860, and is entitled: "An Act to Grant Excise Duties on British Spirits and on Spirits imported from the Channel Islands." Section IV of the act (p. 56, T. R.) provides for an "Allowance" to Distillers or Proprietors of certain Spirits on the exportation thereof from a *Duty-free Warehouse*, or on depositing the same in a *Customs-Warehouse* (Exhibit 1, a). This "allowance" was Twopence a gallon to the distiller, or Threepence to the rectifier.

1865. By Section 12, of Cap. 98, of 28 and 29 Victoria, entitled An Act to allow British Compounded Spirits to be warehoused upon Drawback (p. 57, T. R.), the "allowance" to the rectifier was not to be paid "until a Certificate from the proper Officer of Customs shall be produced * * * that such Spirits have been actually exported or used as aforesaid" (Exhibit 1, b).

1880. An Act to Consolidate and Amend the Law relating to the Manufacture and Sale of Spirits, dated August 26, 1880 (43 and 44 Victoria, Cap. 24) was passed. This is generally known as the Spirits Act of 1880 (Exhibit 1, c).

This Act deserves a somewhat full analysis. We are not quite satisfied with the analysis by the Court of Customs Appeals.

Spirits Act of 1880.

There is no dispute that the Spirits Act of 1880 is the foundation of the present practice of manufacture and sale of spirits in Great Britain and Ireland.

This act came into operation January 1, 1881, and prescribes in great detail (sections 5 to 45) how distilling should be carried on; the distillery being on the distiller's own premises and every step of mashing, brewing, making wort or wash, and distilling being subject to the careful inspection of the Excise officers, for which purpose the distillery must be within a quarter of a mile of a market town (ordinarily). It will be seen from section 47 that duty is chargeable on the amount of spirits distilled, the duty being 14s. 9d. per gallon, and such duty is paid on all of the spirits which are withdrawn from the spirit store for *domestic consumption*. That means *Drink*.

The distiller is obliged to have a *spirit store* which is kept locked by the Excise officer (section 13), and to this store the spirits must be removed at the end of each distilling period, where the spirits must be filled into casks in the presence of the officer (section 43), but cannot remain in the store more than 10 days.

There are three kinds of warehouses in each of which spirits removed from the spirit store may be kept without paying duty. These are the *dis-*

tiller's warehouse on his own premises (section 49), an *Excise warehouse* (section 50) and a *Crown warehouse* (section 54).

In the *distiller's warehouse*, the spirits may be warehoused in casks or in vats upon giving the prescribed security (section 56).

When the distiller has given proper security under which he may remove spirits from one warehouse to another (section 57) he may, under that security, remove the spirits direct from his spirit store to an Excise warehouse or Customs warehouse. The officer in charge of the warehouse gives a certificate as to the spirits warehoused, on receipt of which the officer in charge of the distillery deducts from the number of gallons of spirits chargeable with duty the number of gallons warehoused computed at proof.

The distiller may transfer spirits in a distiller's or Excise warehouse to a purchaser and thereby become free from paying duty, but no second transfer can be made (sections 62 and 63).

Instead of sending spirits from the store to a Warehouse for storage the distiller may remove them from his *store* duty free for exportation or for ship's stores (section 45).

Spirits warehoused may also be delivered out without payment of duty for ship's stores (section 82) or for methylation (section 83).

Spirits in the distiller's or Excise warehouses may be vatted, blended, racked, either on payment of duty or otherwise (section 64). Or plain spirits may be reduced with water to some extent, supplied through a meter (section 67). Or the spirits may be bottled in the warehouse (section 68). Or sweetened or colored, subject to strict regulations (section 69).

When spirits are removed from a warehouse for home consumption the duty has to be paid (section 79).

When taken out for exportation, either from a distiller's or an Excise warehouse under proper regulations, no duty is paid (section 81).

It thus appears that, as far as plain British spirits are concerned, no duty is paid on those which are methylated for use in the arts or manufactures, those which are taken for ship's stores, or those which are exported.

It also appears that spirits may be sent either as ship's stores or for export from (1) the distiller's *spirit store*, direct (section 45), or (2) the *distiller's warehouse*, or (3) an *Excise* or *Customs warehouse*.

Some definitions occur in this Act of 1880, which it might be well to reproduce:

Section 3. * * * "Spirits" means spirits of any description, and includes all liquors mixed with spirits, and all mixtures, compounds, or preparations made with spirits;

"Low wines" means spirits of the first extraction conveyed into a low wines receiver;

"Feints" means spirits conveyed into a feints receiver;

"British spirits" means any British spirits (except low wine and feints), which have not had any flavor communicated thereto or ingredient or material mixed therewith;

"Spirits of wine" means rectified spirits of the strength of not less than forty-three degrees above proof;

"British Compounds" means spirits redistilled or which have any flavor communicated thereto, or ingredient or material mixed therewith; * * *

"Methylate" means to mix spirits with some substance in such manner as to render the mixture unfit for use as a beverage, and "methylated spirits" means spirits so mixed to the satisfaction of the Commissioners.

The more important of the details which show the sort of schoolmaster supervision exercised by the officers of the law over the acts of distillation are as follows:

SECTION 26. (1) Every distiller must, at least six days before beginning to brew wort, or, if he has discontinued brewing wort for more than one month, before recommencing to brew wort, give the proper officer a written notice, specifying the day on which he intends so to brew or recommence brewing.

SECTION 27. A distiller must, at least four hours before he mashes any materials, or brews for making wort, give the officer in charge of the distillery written notice specifying the day and hour when the mashing or brewing is to be commenced.

SECTION 28. (1) All wort must be collected into the fermenting back within eight hours after it has begun to run into the back.

SECTION 42. (1) An officer may take a sample of any wort, wash, low wines, feints, or spirits from any vessel or utensil in a distillery, and the gravity or strength of any sample so taken shall be deemed the gravity or strength of the whole contents of the vessel or utensil from which it is taken.

SECTION 46. (1) The duty on spirits made in a distillery is to be charged in respect of the wort or wash, the low wines, and the feints and spirits made in the distillery, and shall be payable according to such of those modes of charge as produces the greatest amount of duty.

(2) In respect of every one hundred gallons of wort or wash the duty is to be charged for a quantity of spirits at the rate of one gallon of spirits at

proof for every five degrees of attenuation, that is to say, for every five degrees of difference between the highest gravity of the wort as declared by the distiller or found by the officer (whichever is the greater) without any allowance for waste, bub, dregs, yeast, or other matter, and the lowest gravity of the wash as found by the officer before distillation.

(3) In respect of low wines the duty is to be charged on the quantity of spirits at proof contained therein, less five per centum.

(4) In respect of feints and spirits the duty is to be charged on the quantity of spirits at proof after deducting the feints (if any) remaining from a previous distillation and included in the account of feints and spirits last produced.

(5) In calculating the duty payable on spirits an allowance shall be made for any deficiency occasioned by natural waste, subject to the following provisions—

(a) The allowance shall not exceed one and a half per centum on the spirits removed from the receiver to the store.

(b) If the deficiency exceeds three per centum on the spirits so removed no allowance whatever shall be made.

SECTION 47. (1) The proper officer shall from time to time make out in the prescribed manner and for the prescribed period a return of the quantity of spirits for which a distiller is chargeable, and of the duty payable thereon, and shall, if required in writing by the distiller, deliver to him, or leave at his distillery, a copy of this return, signed by the officer.

The Spirits Act of 1880 having with great care regulated the distilling of plain spirits, proceeds

(sections 86 to 95) to take equal care of the rectifying.

The rectifier may warehouse in an Excise or Customs warehouse for exportation or for ship's stores or for home consumption, British compound spirits (section 95) and we have already seen in section 64 that spirits might be blended and bottled in the excise warehouse.

We are not here concerned with the rest of the Act which concerns dealers, retailers, methylated spirits, etc.

The attention of the Court is called to the fact that there is no requirement that the distiller should submit to these burdensome details if the spirits are to be exported.

1881. The Customs and England Revenue Act, 44 Vict., Chap. 12, was passed, of which Sections 16 and 17 provided for increasing the allowance to rectifiers and compounders from 3d. per gallon to 4d. and for the warehousing of foreign wines (Exhibit 1, *d*).

1885. Another Customs and England Revenue Act was passed, known as 48 and 49 Vict., Chap. 51, (Exhibit 1, *e*), of which Section 3 reads as follows:

“(1) Where any spirits distilled and rectified in the United Kingdom are exported from an Excise or Customs warehouse, or are used in any such warehouse for fortifying wines, or for any other purpose to which foreign spirits may be applied, there shall be paid in respect of every gallon of such spirits, computed at hydrometer proof, the following allowances; that is to say,—

In respect of plain British spirits, and spirits of the nature of spirits of wine, an allowance of twopence, and

In respect of British compounded spirits, an allowance of fourpence.

(2) The allowance shall be paid, in the case of spirits exported, to the person who shall have given security for the exportation, and in the case of spirits used in warehouse, to the person upon whose written request the spirits shall have been so used.

(3) The allowances shall not be paid until a certificate from the proper officer of Inland Revenue or Customs shall be produced to the officer of Inland Revenue appointed to pay the same, that such spirits have been actually exported or used as aforesaid."

1889. A Revenue Act was passed, entitled 52 and 53 Vict., Chap. 42 (Exhibit 1, f), of which Section 21 reads as follows:

"Notwithstanding anything to the contrary in section three of the Customs and Inland Revenue Act, 1885, the allowances payable under that section may, in the case of British compounded spirits of a strength exceeding eleven degrees over proof, and spirits of the nature of spirits of wine, be paid, on the production of a certificate from the proper officer of inland revenue or customs that the same have been deposited in an excise or customs warehouse, to the person in whose name they are warehoused; and any payment heretofore made on the deposit of such spirits shall be deemed to have been legally made in discharge of all claims to any allowance payable in respect thereof."

Up to this time Congress had not (apparently) passed any countervailing duty section, but

1890. Congress passed a Tariff Act (26 Stat. L. 567), of which paragraph 237 imposed a countervailing duty upon sugar on which a "Bounty" had been bestowed.

We ask the Court to note that when Congress passed this first C. V. D. Act of 1890, Congress only selected sugar as the foreign goods on which to levy

a C. V. D., and confined itself to the word "Bounty." The British practice, however, of paying the Allowance (now in question for the first time before this Court) had been going on for thirty years, and the complete practice under the Spirits Act of 1880 (the present practice also) had been carried out for ten years.

It hardly requires argument to show that by the Tariff Act of 1890, Congress did not intend to countervail British spirits, or anything else except sugar.

1894. (28 Stat., L. 509) Congress again imposed a C. V. D. on sugar, and again confined itself to the word "Bounty".

1895. The British Finance Act, 58 Vict., Chap. 16, was passed (Exhibit 1, *g*) of which Sections 6 and 7 read as follows:

"6. Regulations of the Commissioners of Inland Revenue, under section one hundred and fifty-nine of the Spirits Act, 1880, may regulate the removal for exportation of methylated spirits, and where spirits used for methylation are removed from a place of methylation and exported in accordance with those regulations, there shall be paid to the exporter an allowance of twopence for every gallon of such spirits, computed at hydrometer proof, and subsection three of section three of the Customs and Inland Revenue Act of 1885 shall apply, as if the spirits were exported and the allowance made in pursuance of that section.

7. After the thirty-first day of December, one thousand eight hundred and ninety-five, section one hundred and nineteen of the Customs Consolidation Act, 1876 (which limits the time for the payment of a drawback on the exportation of goods), shall extend to the payment of any allowance in respect of spirits exported, used, or deposited, which is payable under section three of the Customs and Inland Revenue Act, 1885, as amended by section twenty-one of the

Revenue Act, 1889, and to an allowance in respect of methylated spirits exported which is payable under this Act, and to the payment of any drawback of excise which is allowed on the exportation of any goods, in like manner as if it were in terms made applicable thereto, and the date of user or deposit were the date of shipment."

1897. Congress (for the first time) passed a Tariff Act (30 Stat., L. 151) containing a general countervailing provision not confined to sugar. Of this Act, Section 5 reads as follows:

"That whenever any country, dependency, colony, province or other political subdivision of government shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined, and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties."

Here the word "Grant" is joined with the word "Bounty".

This statute also imposed a C. V. D. (c. 11, sec. 1, schedule M, paragraph 393) upon wood pulp brought here from a country which imposed an export duty on pulp wood.

1898. In April the Treasury Department, by T. D. 19256, ruled that sugar grown in Germany and refined in England was held subject to countervailing duty. This decision was sustained by the Board of General Appraisers, No. 4133, and does not seem to have been carried any further.

The Supreme Court of the United States, in the *Passavant* case gave a definition of "Drawback". As the case arose under the old law, there was no question of countervailing duty, but the Court seems to have held that the Drawback, being the remission of the tax on hosiery, was considered by the Treasury Department as a part of the market price in fixing the *ad valorem* duty.

In September the Treasury Department, by T. D. 20039, held that Holland sugar, having received a Bounty on production was subject to countervailing duty. This case was carried to the Circuit Court of Appeals in 1901.

1899. The Treasury Department, by T. D. 21501, followed T. D. 20039.

1901. In April the Treasury Department, by T. D. 22984, held that sugar received a Bounty in Russia and was subject to countervailing duty. This became the famous Russian Sugar Bounty case, which finally reached the Supreme Court of the United States.

1902. The British Finance Act, 2 Edw. 7, Chap. 7, (Exhibit 1, h), was passed, of which Section 5 reads as follows:

"(1) As from the seventeenth day of June, nineteen hundred and two, the Customs duty

of ten shillings and fourpence on imported spirits, imposed by section seven of the Customs and Inland Revenue Act, 1881, shall, as respects spirits other than rum and brandy, be ten shillings and fivepence, and the allowance of twopence and fourpence payable in respect of spirits under section three of the Customs and Inland Revenue Act, 1885, and section six of the Finance Act, 1895, shall be respectively threepence and fivepence.

(2) For the purpose of Section three of the Customs and Inland Revenue Act, 1885, spirits shall be deemed to be British plain spirits, or spirits in the nature of spirits of wine, and not to be British compounded spirits, unless they are proved to the satisfaction of the Commissioners of Inland Revenue to have been distinctly altered in character by redistillation with or without the addition of flavouring matter."

1906. The British Revenue Act, 6 Edw. 7, Chap. 20 (Exhibit 1, i) was passed, of which Section 1 reads as follows:

"(1) Where any spirits are used by an authorised methylator for making industrial methylated spirits, or are received by any person for use in any art or manufacture under section eight of the Finance Act, 1902, the like allowance shall be paid to the authorised methylator or to the person by whom the spirits are received, as the case may be, in respect of those spirits as is payable on the exportation of plain British spirits, and the Commissioners may by regulations prescribe the time and manner of the payment of the allowance and the proof to be given that the spirits have been or are to be used as aforesaid.

(2) No allowance shall be payable under this section on methylic alcohol, but foreign methylic alcohol may be received and used under section eight of the finance act, 1902, without payment of the difference of duty mentioned in that section.

(3) One-nineteenth shall, as respects methylated spirits other than mineralized methylated

spirits, be substituted for one-ninth as the minimum proportion of the substance or combination of substances to be mixed with spirits under subsection (3) of section one hundred and twenty-three of the Spirits Act, 1880.

(4) Notwithstanding anything in subsection (2) of section eight of the Finance Act, 1902, an applicant under that section shall not be required to pay any expenses incurred in placing an officer in charge of his premises, except such expenses as, in the opinion of the Commissioners, are incurred for special attendance of the officer, made to meet the convenience of the applicant.

(5) Such quantity as the Commissioners may authorise by regulations in each case shall be substituted for fifty gallons in subsection (c) of section one hundred and twenty-six of the Spirits Act, 1880, as the maximum quantity of methylated spirits that may be received or be in the possession of a retailer at any one time; and for one gallon in subsections (e) and (f) of that section as the maximum quantity of methylated spirits which a retailer may receive from another retailer at a time, and as the maximum quantity which a retailer may sell to or for the use of any one person at a time respectively."

There has been no change in the British system since that date.

1909. Congress passed another Tariff Act, and in this new Act the above quoted paragraph of Section 5 of the Act of 1897 was introduced, *without change*, as a part of Section 6 of the new Act.

1910. Mr. Rufus Fleming, U. S. Consul at Edinburgh, Scotland, wrote three letters dated respectively March 23, 1910, April 28, 1910 and June 7, 1910, which are found printed T. R. 40 to 41, as part of Exhibit 7.

1911. On January 21 the Treasury Department, by T. D. 31229, made its first attempt to place a countervailing duty on British Spirits by reason of the Allowances so often referred to in the previous documents.

This at once led to an earnest protest on behalf of the British government and the various distillers and importers interested, all of which is set forth in Exhibits 5 and 6 (pp. 23 to 39, T. R.).

On April 18 the Treasury Department, by T. D. 31490, revoked T. D. 31229, and decided that these Allowances were not Bounties or Grants. The language of said decision, T. D. 31490, is as follows:

"Upon a further consideration of the laws of the United Kingdom of Great Britain and Ireland relating to the *allowance* granted upon exported British spirits, and in view of the additional laws and facts in relation thereto submitted by officers of the said Government, the department has reached the conclusion that the said *allowance is not a bounty or grant within the meaning of section 6 of the tariff act of August 5, 1909*. Consequently no countervailing duty will be assessed upon British spirits imported into the United States. T. D. 31229, is hereby revoked."

No countervailing duty was, therefore, imposed.

1913. On October 3 Congress passed a new Tariff Act of which paragraph E of Section IV was a literal copy of the paragraph above referred to of Section 6 of the Act of 1909, which in turn had been copied literally from Section 5 of the Act of 1897.

We call the attention of the Court to the fact that this paragraph (thrice enacted) is the only paragraph in our statutes relating to countervailing duties which is not confined to sugar.

On August 5 of this year Mr. Fleming had writ-

ten another letter which is found on page 16 T. R. as part of Exhibit 7.

1914. Early in this year the Treasury Department intimated that it was going to make the decision which subsequently appeared on May 25, 1914, and which is the root of this litigation, T. D. 34466, and which reads as follows:

“TREASURY DEPARTMENT, *May 25, 1914.*

To collectors and other officers of the customs:

Your attention is invited to T. D. 31229 of January 21, 1911, imposing countervailing duties on certain British spirits equivalent to the export allowances granted by the Government of the United Kingdom of Great Britain and Ireland and to the revocation of that decision in T. D. 31490 of April 18, 1911.

The Secretary of State has transmitted to the department a consular report which furnishes additional information in the matter and the Attorney General has stated that the question of whether the said export allowances are bounties within the meaning of paragraph E of section 4 of the tariff act of October 3, 1913, is one better fitted for judicial determination than for an expression of his opinion.

The department, after further careful consideration of the matter, is of the opinion that the allowances in question (except that on ‘methylated spirits’) constitute export Bounties within the meaning of said paragraph of law. Countervailing duties are, therefore, reimposed in regulations as follows: etc.

6. These regulations will take effect 30 days after date.

CHAS. S. HAMLIN, Acting Secretary.”

Thereupon the British Embassy again protested, as appears by Exhibits 8, 9, 10 and 11, dating from March 19 to May 1, 1914. But they were of no avail.

Acting under this most recent decision of the Treasury Department, the Collector of Customs of

New York imposed countervailing duties on British Spirits equalling the British Allowances of 3d or 5d per gallon.

The goods in question have already paid a very high import duty of \$2.60 a case. The appellants in this particular case, No. 311, had already paid \$45,335.00 as the normal duty without protest. The additional or countervailing duty at the time of the first hearing before the Board, paid under protest, had amounted to \$1,603.75.

1915. On May 24 the protest was argued before the Board of General Appraisers, New York City, and overruled on July 16, 1915 (pp. 16 to 22, T. R.).

1916. On February 9 the appeal was argued before the Court of Customs Appeals and the Board was affirmed May 12, 1916 (pp. 55 to 73, T. R.).

On December 11 the petition for writs of *certiorari* was filed and granted December 18, 1916.

Argument.

As was well said by the learned counsel for the Government in their first brief, "The law and the facts are so blended, that it is almost impossible to consider one without, at the same time, discussing the other."

The general trend of our argument was, therefore, necessarily foreshadowed during the brief history of the case.

The able counsel for appellants in the Companion case, 310 Nicholas *v. United States et al.*, will discuss more fully than I shall some of the points raised by these cases, notably the effect of Departmental Practice.

The present brief will be devoted mainly to laying before this Court the following three points:

1. The British Allowances have always been spoken of in British Statutes and other documents as "Allowances"; their nature, upon the evidence, is clearly an Allowance, not a Bounty, Grant or Drawback; the Allowances are not paid upon exportation (as such) nor upon exported goods (as such), but only upon goods which, whether subsequently used in the arts or otherwise kept out of potable consumption in Great Britain or Ireland, have been *voluntarily* submitted to the onerous details of complicated revenue regulations by having their distillation, compounding, rectifying or storage done in certain specified warehouses under Government control.

2. The uniform practice of the United States Supreme Court from 1791 to date, in interpreting Acts of Congress, has been to look to the intent of Congress and make that intent effective if in any way possible.

3. Congress, by its own legislation on the subject of Allowances, Bounties, Drawbacks and Grants, from 1791 to date, has clearly indicated that paragraph E of Section IV of the Tariff Act of October 3, 1913, was not intended to include these British Allowances as subjects of countervailing duty, but was so worded as to continue the custom, of fifty-three years' standing, and to admit British Spirits, plain or compound, without countervailing duty.

POINT ONE.

The British Allowances have always been spoken of in British Statutes and other documents as "Allowances"; their nature, upon the evidence, is clearly an Allowance; not a Bounty, Grant or Drawback; the Allowances are not paid upon exportation (as such) nor upon exported goods (as such), but only upon goods which, whether subsequently used in the arts or otherwise kept out of potable consumption in Great Britain or Ireland, have been *voluntarily* submitted to the onerous details of complicated revenue regulations by having their distillation, compounding, rectifying or storage, done in certain specified warehouses under Government control.

The experience of our own Internal Revenue Officers in collecting the whisky taxes gives us some idea of the difficulties which faced the British Government when, in 1860, it threw its ports open, practically, to the free trade of the world, except as to distilled spirits. To make good to the Royal Exchequer, the revenue thus lost, the British Government undertook to raise a vast amount of needed revenue by an extremely heavy tax on every gallon of potable distilled spirits consumed in any part of Great Britain and Ireland. With the extensive Scottish and Irish coasts (to say nothing of those of England, Wales and the adjacent small islands), the temptation to smuggle liquor or to distil it in

some out of the way place on the coast and transport it stealthily at night to some other part of the country, whence it could be distributed to the "speak-easies", was well nigh irresistible to an immense number of people who resented or dreaded this oppressive tax.

Aware of all this, the British Government realized that it was imperative to organize the above described complete, inquisitorial, supervising system for the control of the work of the distiller and the rectifier so that the loss by illicit distillation should be reduced to a minimum.

On the other hand no people, probably, are so jealous of their individual rights of privacy as the British.

The British Government, therefore, was not willing to make a law compelling *every* gallon of domestic liquor to be distilled in the presence of a public officer. But it came as near to that as it dared; substituting patriotism in place of force as a motive.

The elaborate system devised, and put into operation with its burdens and details, as fully set out in the Spirits Act of 1880, Exhibit 1 (c) and the weight thus pressing upon the distiller and rectifier are quite well described in the correspondence from the British Embassy and the various documents, affidavits and explanations set forth in Exhibits 5, 6, 9, 10 and 11.

At the very beginning of this system, the British Government, in the Act of 1860, Section IV, recognized the "loss and hindrance" which would be "caused by excise regulations in distillation and rectification of spirits in the United Kingdom" under that system. And Mr. Gladstone, at some length, pleaded before the House of Commons, the right of distillers and rectifiers to such limitation of the imposed burdens as would not interfere with the effectiveness of the regulations.

We submit that it is an almost incredible distortion of the intent or effect of these Allowances to regard them as an encouragement to the exporting of distilled spirits, or as enabling the exporter to sell liquor to better advantage in foreign countries than distillers and rectifiers of other countries.

The only word, we believe, used by the British to denote this payment as to certain Spirits is "Allowance". For example:—Act of 1860 (Exhibit 1-a) "there shall be paid * * * the Allowance of 2d per gallon;" Act of 1865 (Exhibit 1-b) Section 12, "the Allowance of 3d per gallon * * * but such Allowance * * *;" Act of 1881 (Exhibit 1-d) Section 16, "the Allowance of 3d per gallon * * * shall be increased to 4d per gallon;" Act of 1885 (Exhibit 1-e) Section 3, "the following Allowances * * * an Allowance of 2d * * * an Allowance of 4d * * * the Allowance shall be paid * * * the Allowance shall not be paid;" Act of 1889 (Exhibit 1-f) Section 21, "the Allowances payable * * * any Allowances payable;" Act of 1885 (Exhibit 1-g) Section 6, "an Allowance of 2d * * * the Allowance made * * * any Allowance in respect of * * * an Allowance in respect of."

This same custom of calling this payment an "Allowance" (and using no other word for it) continued in the Acts of 1902 (Exhibit 1-h) and 1906 (Exhibit 1-i) and is used throughout during the other and later documentary evidence introduced. It was only the American Consul (Exhibit 6), who associated the word "bounty" with "allowance" in 1910 and afterwards.

The evidence referred to shows absolutely that from 1860 to 1897 (and later) the open, public, statutory name in commercial usage was "allowance".

For fear of being misunderstood, we state here, that we are not arguing that the name determines

the character of the thing. As has been repeatedly said, the Courts regard things, not names. But we are arguing that the name adopted for the thing shows the intent, or idea, which that word was intended to cover.

These Allowances were not paid because the spirits were exported. They were paid for quite a different reason.

The law left it open for the distiller to decide whether he would export, warehouse, sell, or use spirits under conditions *which resulted* in an Allowance, or whether he would export, warehouse, sell, or use them under conditions *which did not result* in an Allowance.

It seems clear to us that the motive which influenced him to do the former was not the expectation of an Allowance, but patriotism. The Allowance did not make up the money lost.

In the foregoing analysis we have spoken of three different kinds of warehouses:

A Distiller's Warehouse, an Excise Warehouse and a Crown or Customs Warehouse. To these might be added a fourth, the Distiller's Spirit Store, which is a quasi warehouse for temporary storage.

It is important to keep these in mind.

A Crown or Customs Warehouse is owned by the Government.

An Excise or General Warehouse is owned by some one, who is not a distiller, and *controlled* by the Government.

A Distiller's or private warehouse is owned by the distiller and supervised by the Government.

A Spirit Store is a temporary warehouse owned by the distiller and used for storing spirits immediately after distillation.

From each of these four warehouses spirits may be removed for export, and exported without paying duty, but no allowance is paid except on goods removed from the *Crown* or *Customs* warehouse or

the *Excise* or *General* warehouse. If the distiller sends his spirits direct to the ship or other exporting vehicle from his own Distillers' warehouse, or his own Spirit Store, there is a remission of the duty (Drawback), but no Allowance. The reason for this distinction is to be found in the fact that when a distiller exports that way, instead of first depositing his spirits in an Excise or Customs warehouse, he breaks the chain of government supervision which begins with a notice to the Government Officer that the Distiller is going to brew and should end with the final disposal of the spirits. In other words: When a distiller brews liquor and the Government Officer at the distillery begins to keep accurate account of everything, even the *water*, which goes into the vat and of *everything* which comes out of the vat, if *every gallon* which is distilled is deposited within the prescribed time, in an Excise or Customs warehouse, the Government Officer there can check off the entire production. When, however, only a *portion* of the distilled spirits, as checked up by the Officer at the distillery, goes to the Excise or Customs warehouse and the rest goes from the distiller's own warehouse or Spirit Store into consumption, use or export, the figures of the Officer at the distillery are practically the only ones available; that is, the Excise Warehouse Officer cannot check up the distillery Officer's figures.

The Law does not undertake to compel a distiller to submit his entire product to this double checking (probably for the reason above stated, that it would be regarded as an unbearable interference with individual rights), but the law does seek to persuade the distiller to submit his entire product to this double checking from motives of patriotism. To prevent this act of patriotism costing him too much money, the Government seeks to reimburse him by a carefully calculated amount called an Allowance; the "loss or hindrance" as to these

voluntarily submitted goods incurred by so submitting them.

The spirits which are to go into domestic potable consumption are *compelled* to be submitted to this loss and hindrance by law. That is a part of the tax; an addition to the fixed tax of 14s and 9d. But the object of the British system being only to tax liquor which is to be drunk in England, the Government seeks to avoid imposing any tax or burden upon liquor which is not to be drunk. It matters little to the Government whether the undrunk liquor remains in storage permanently; whether it is used for any of the various industrial purposes as fuels, cleansing compounds, making paints, or is methy-lated so that it becomes unfit to drink or sent out of the country. As soon as it is proven that the liquor *cannot* be used for drinking purposes, its allowance is payable.

A brief glance at the steps taken, beginning with malt or other material and ending with the spirits as drawn from the vat and checked up by the Officer at the distillery, may be of interest and make plain why the Government draws such a sharp line between the liquor which is to be drunk and the liquor which is not to be drunk.

As a concise statement of some of the restrictions imposed, we refer to the testimony of Mr. Nicholson (p. 37, T. R.), as follows:

“ We cannot work by-products as we should like to do, owing to the restrictions. We cannot work kindred trades in conjunction. For instance, we might be sugar refiners or starch makers, or other kindred trades. We are cut off entirely from that. We are put into a category by ourselves simply as distillers. These restrictions, therefore, tell very much against us. Also, whenever we apply for an alteration in plant, plans have to be produced and reasons given why we are going to do it; if the Excise do not like the scheme we cannot carry it out.

We have to satisfy them as to its chances of success. It is very hard indeed for a distiller to try experiments to improve his produce or plant. There are many things of that kind. Besides, owing to being under supervision, no secret process whatever can be worked, because the information leaks out and is passed on to other distilleries. In most free trades money is made by enterprising people working their own schemes in their own way, but we are absolutely debarred from doing so. In fact, by the rules and regulations, there is virtually only one way to make spirits—you have got to brew and use certain vessels, and you have got to distil and use certain stills, and the whole thing has got to be followed out in a certain way."

This was supplemented by James Buchanan and others as follows (same page):

"These restrictions include: *e. g.*, the condition that mashing and distilling processes must be carried on at separate times, thereby causing one-half of the plant to remain idle, whereas in Continental Distilleries these processes can be carried on simultaneously and continuously, even during Sundays. The result of this restriction is, by comparison, to reduce the production of the British distiller, employing similar plant, by one-half or two-thirds.

The regulations governing the equipment of distilleries, warehouses and housing accommodation for revenue officers are exceedingly onerous in their requirements of capital outlay."

Let us suppose a distiller is preparing to use his still—he naturally has to get his raw materials together, or within easy reach first. Before he begins to mash or brew wort from these materials, or resume brewing when a month has passed since he stopped brewing, he has to give six days' notice to the Government Officer assigned to his distillery (whose quarters he has to provide for) of the day when he means to begin to brew. This is not suffi-

cient. As the day approaches the distiller must give four hours' notice of the hour when the mashing or brewing will begin. At or before the appointed hour the Officer arrives and the mashing of materials or brewing for making wort begins as notified. The Officer stands by, the apparatus must be so running that all wort must be collected in the fermenting back within eight hours after it begins to run into the back. The Officer takes such samples as he pleases of any wort, wash, low wines, feints or spirits in any vessel or utensil that he finds in the distillery, and from his sample so taken the general character of the whole contents of the vessel or utensil as to gravity and strength is assumed, and from that assumption the duty is figured. Even the water necessary for the process of mashing or brewing is measured by reason of the fact that it all has to pass through a meter before it reaches the materials. The construction and location of every pipe, back, vat or other device employed are such that it is impossible for anything to get in or get out without the Officer's knowledge, and everything is figured by him. The process must be continuous until the distillation is complete and the distilled spirits are conveyed in bulk into the Spirits Store at the end of each distilling period. The Officer has the key to the store, and the store must be kept locked except when he chooses to unlock it. The Officer goes to the Spirits Store where the spirits must be filled into the casks in his presence. Inside of ten days all the spirits must be removed from the Spirits Store under the supervision of the Officer. They may go to the distiller's own warehouse if desired and there stored, or they may go direct to an Excise warehouse or direct to a ship about to sail for foreign parts or as ship's stores, or they may go into domestic, potable, consumption.

If they go into domestic potable consumption a duty has to be paid before the liquors leave the

Spirits Store. If the spirits go to a ship for exportation or for ship's stores they do not have to pay duty, but they get no Allowance. If the spirits, instead of either of these two things happening, are passed from the Spirits Stores to the distiller's own warehouse a duty is temporarily fixed, but not paid. The same is true of spirits which go direct from a Spirits Store to an Excise warehouse or Customs warehouse for such further steps as may be desired, such as vatting, blending, racking or reducing plain spirits by water supplied through a meter, or bottling, sweetening or coloring, and there remain until their next destination is determined.

Such of these spirits as are removed from the distiller's warehouse to an Excise or Customs warehouse remain subject to duty, but the duty is not yet paid. Such as are removed by somebody who bought them while they were in the warehouse are to be taken out for home potable consumption as soon as the duty is paid. Such spirits as are removed under proper guarantee for exportation or for use other than potable consumption do not have to pay duty, but they receive no Allowance.

Such of the spirits as are warehoused in an Excise or Customs warehouse, whether they come from the distiller's own warehouse or direct from the distiller's Spirits Store, are received subject to duty, but not yet paid. Such of them as are removed from this Excise or Customs warehouse for potable domestic consumption have to pay the duty before such removal. Such of them as are removed from this Excise or Customs warehouse, under proper security for methylation or other domestic use than potable consumption, are free from paying duty and receive the stated Allowances. Such as are removed from this Excise or Customs warehouse for exportation or ship's stores are also duty free and receive the stated Allowances. It is, therefore, evident that a sharp distinction is drawn between

the spirits which have only passed through one checking, that by the Government Officer at the Distillery, which do not get an Allowance under any circumstances, and those spirits which have gone through the second checking by the Government Officer at the Excise or Customs warehouse, which do get the stated Allowances unless they are ultimately withdrawn to be drunk in some part of Great Britain or Ireland.

The more we study this situation, the harder we find it to believe that these Allowances have anything whatever to do with the question of exportation. The question of Allowance or no Allowance lies between spirits which are put within the reach of the drinking public for the purpose of drinking, and spirits which are rendered absolutely unavailable for drinking purposes either by turning them into poisons, paints, varnishes or by methylation or by getting rid of them in some other way which is certain to keep them away from potable consumption within the United Kingdom. The fact that some of these spirits so kept from potable consumption within the United Kingdom are disposed of by sending them out of the country altogether is a mere incident. The Allowance would be paid just as quickly if the spirits were thrown *into* the Atlantic Ocean instead of taken *across* it.

As shown by the statements of the British Ambassador and several well-known distillers, printed in the record, the Allowances by no means make up for the loss and hindrance of subjecting the spirits to this second checking process with all it involves.

We, therefore, come down to this bald proposition:

In the eye of the British law there are two divisions of British spirits, plain and compound, which may be disposed of in various ways without paying the Excise tax. Those which have been singly checked get no Allowance; those which have been

doubly checked get an Allowance, but the omission to get an Allowance, or the getting of the Allowance, has nothing whatever to do with the particular way in which those singly or doubly checked spirits are disposed of.

It remains incredible to us that any one who analyzes this situation dispassionately can find any ground for thinking that the Allowances paid under this double checking system could possibly have been intended to encourage exportation; could possibly have the effect of encouraging exportation; or could possibly enable the British distiller to place his spirits here at a less price or a greater profit than he could, had no Allowance been granted to him.

A plain answer to such reasoning is that, in view of the admitted fact that the Allowance does not make up for the loss incurred in submitting his goods to the second checking by passing them through an Excise or Customs warehouse, a British exporter could sell here, at a less price or a greater profit, those spirits, which he had exported *without* sending them through one of these warehouses and on which he had received no Allowance, than those which he *had* sent through and on which he had received an Allowance.

The same thing is true of the methylator. He gets an Allowance only on spirits which have been doubly checked by going into the Excise or Customs Warehouse before methylation. Quære: Why does T. D. 34466 expressly except imported methylated spirits from the countervailing duty?

We should also note that under 52 and 53 Vict., Chap. 42 of 1889, where the compounded spirits exceed eleven degrees over proof, the Allowance may be paid immediately upon deposit in an Excise or Customs Warehouse; without waiting to see what becomes of them. Eleven degrees over proof itself constitutes an alcoholic poison. By that fact

alone the compound spirit was removed from the taxable class. But, having been voluntarily submitted to Government control in an Excise warehouse, the owner was entitled to his Allowance.

Without dwelling longer upon this point, we submit that all the evidence in this case shows that the Allowances on British spirits were in no sense a Bounty, or Grant on exportation and were in no sense a Drawback.

They were a thing apart, well-known to the law and recognized as such, as we shall expect to show further on in our own Tariff legislation, and it would be an act of injustice to penalize these Allowances as Bounties or Grants under Paragraph E of Section IV of the Tariff Act of 1913.

POINT TWO.

The uniform practice of the United States Supreme Court from 1791 to date, in interpreting Acts of Congress, has been to look to the intent of Congress and make that intent effective if in any way possible.

We have tried to make an exhaustive examination of all those decisions by the Supreme Court of the United States since its organization in February term, 1790 (2 Dallas 398) to date, which deals with the interpretation of Acts of Congress.

It would, obviously, make a voluminous record if we were to set out in full the vigorous language of the successive justices who have sat upon the Supreme bench from that day to this. In calling attention, therefore, chronologically to these cases, we have

confined ourselves to a short extract, or even a few lines, from the opinion of the Court in each case. It is our desire to demonstrate to the Court that whatever the facts, whatever the peculiarities or intricacies of any case may be, the Supreme Court has always held fast to the idea that the intent of Congress controls the interpretation of the words used or omitted by Congress.

1800. The Supreme Court of the United States, 3 Howard 565, attributes the following language to one of its own prior decisions cited as 4 Dall. 14: "The intention of the Legislature, when discovered, must prevail, any rule of construction declared by previous acts to the contrary notwithstanding." We have been unable to find this remark in *Cooper v. Telfair*, as reported 4 Dall. 14.

1804. *Adams v. Woods*, 2 Cranch, 6 U. S. 336. It is true that general expressions may be restrained by subsequent particular words, which show that in the intention of the legislature, those general expressions are used in a particular sense."

1806. *U. S. v. Heth*, 3 Cranch 399, 409: "The words of the act, 'Arising on goods imported,' although in themselves very indefinite in point of time, will receive a precise signification in this respect, by supplying the words 'Heretofore,' to give them a past, or 'hereafter,' to give them a future signification."

1824. *The Appollon*, 9 Wheaton 362. "It cannot be presumed that Congress would voluntarily justify such a clear violation of the laws of nations."

1824. *The Emily and the Caroline*, 9 Wheaton 381. "In construing a statute, penal as well as others, we must look to the object in view, and never

adopt an interpretation that will defeat its own purpose, if it will admit any other reasonable construction."

1824. *The Merino, etc.*, 9 Wheaton 391. "Be this as it may, the language of the acts of 1800 and 1818, leaves no reasonable doubt that the intention of the legislature was * * *."

1824. *The Margaret*, 9 Wheaton 421, "and, therefore, it may have escaped the attention of Congress, that such was the legal construction. But such a supposition is not lightly to be indulged, not only from the direct and unequivocal language of the judiciary act of 1789, but also from the reference in the registry act to the revenue act of 1790."

1826. *U. S. v. Vanzandt*, 11 Wheaton 184. "It may further be remarked, that if it had been the policy and intent of the legislature, that the act of delinquency should be inexorably followed by a removal from the office, it might not be unreasonable to presume that such a consequence would have been distinctly announced."

1827. *U. S. v. 350 Chests of Tea*, 12 Wheaton 486, 493. "If that were the intention of the legislature, the offense would consist."

1828. *Minor et al. v. The Mechanics' Bank of Alexandria*, 1 Peters 46. "But no general rule can be laid down upon this subject, further than that that exposition ought to be adopted in this as in other cases, which carries into effect the true intent and object of the Legislature in the enactment."

1828. *Jackson v. Clark et al.*, 1 Peters 628, 635. "This reasonable, and, we think, necessary construction, has met with general acquiescence. Con-

gress has acted upon it and has acted in such a manner as not to excite complaints, either in the State of Virginia or the holders of military warrants."

1829. *Pennock and Sellers v. Dialogue*, 2 Peters 1, 18. "In such a case, if the court could perceive no reason for the restrictions, the will of the Legislature must still be obeyed."

1829. *Wilkinson v. Leland et al.*, 2 Peters 627, 662. "The only question then, is what is the intent of the Legislature in the act of 1792?"

1840. *The Lessee of Brewer v. Blougher et al.*, 14 Peters 178, 198. "It is undoubtedly the duty of the court to ascertain the meaning of the Legislature, from the words used in the statute, and the subject-matter to which it relates; and to restrain its operation within narrower limits than its words import, if the court are satisfied that the literal meaning of its language would extend to cases which the Legislature never designed to embrace in it."

1840. *The Lessee of Pollard's Heirs v. Kibbe*, 14 Peters 353, 361. "The term 'new' in its ordinary acceptation, when applied to the same subject or object, is the opposite of old. But such cannot be its meaning as here used; for there is no pretense that two grants and orders of survey had at any time been used for the same lot. Some other meaning must, therefore, be given to it."

1840. *U. S. v. Morris*, 13 Peters 464, 475. "Yet the evident intention of the Legislature ought not to be defeated by a forced and overstrict construction."

1841. *Minis v. The United States*, 15 Peters 434, 445: "Nor ought such an intention on the part of

the Legislature to be presumed, unless it is expressed in the most clear and positive terms, and where the language admits of no other reasonable interpretation."

1845. *Aldridge et al. v. Williams*, 3 Howard 9, 24. "The law as it passed is the will of the majority of both houses, and the only mode in which that will is spoken is in the act itself; and we must gather their intention from the language there used, comparing it, when any ambiguity exists, with the laws upon the same subject, and looking, if necessary, to the public history of the times in which it was passed."

1845. *The United States v. Freeman*, 3 Howard 556, 565. "Wherever any words of a statute are doubtful or obscure, the intention of the Legislature is to be resorted to, in order to find the meaning of the words. (*Wimbish v. Tailbois*, Plowd. 57). A thing which is within the intention of the makers of the statute, is as much within the statute, as if it were within the letter."

1862. *U. S. v. Babbit et al.*, 66 U. S. 55. "What is implied in a statute, pleading, contract, or will, is as much a part of it as what is expressed."

1886. *U. S. v. The Reform*, 70 U. S. 617. "Presumption is that Congress did not intend to relax the existing restrictions upon commercial intercourse with the States or districts declared to be in insurrection, because there is not a word or phrase in the Act indicating any such intention. Condition of affairs was well known to Congress at that period, and it is to be presumed that those who voted for the Appropriation Act and directed the purchase of the cotton seed, if they had intended to relax the commercial restrictions as a means of

facilitating the purchase, would have employed appropriate language to signify that intention. Nothing of the kind is expressed in the Appropriation Act."

1867. *Supervisors, Rock Island Co. v. U. S.*, 71 U. S. 435. "In all such cases it is held that the intent of the Legislature, which is the test, was not to devolve a mere discretion, but to impose 'a positive and absolute duty.'"

1867. *Hadden v. Barney*, 72 U. S. 107. "It is true that some of the other sections, when providing for a duty upon articles previously exempt, express the intention of the Legislature in this respect in language free from doubt."

1868. *Poor's Lessees v. Considine*, 73 U. S. 458. "It only requires the reading of the 5th section of the statute before the 4th in order to effectuate the intention of the Legislature."

1872. *Reiche v. Smythe*, 80 U. S. 162. "If it be true that it is the duty of the court to ascertain the meaning of the Legislature from the words used in the statute and the subject-matter to which it relates, there is an equal duty to restrict the meaning of general words, whenever it is found necessary to do so, in order to carry out the legislative intention. *Brewer v. Blougher*, 14 Pet. 178. And it is fair to presume, in case a special meaning was attached to certain words in a prior tariff Act, that Congress intended they should have the same signification when used in a subsequent Act in relation to the same subject matter."

1873. *The State v. Stoll*, 84 U. S. 425. "Is it clear and certain that the Act of 1843 was intended to prescribe the only rule?"

1873. *Atkins v. Fiber Disintegrating Co.*, 85 U. S. 272. "The intention of the Law maker constitutes the Law. A thing may be within the letter of a statute and not within its meaning, or within its meaning though not within its letter."

1874. *Blake v. National Bank*, 90 U. S. 307. "Under these circumstances we are compelled to ascertain the legislative intention by a recurrence to the mode in which the embarrassing words were introduced, as shown by the journals and records, and by giving such construction to the statute as we believe will carry out the intentions of Congress."

1874. *Smythe v. Fiske*, 90 U. S. 374. "Revenue Laws are to be construed liberally to carry out the purposes of their enactment."

1876. *U. S. v. Reese*, 92 U. S. 214. "This is a penal statute and must be construed strictly; not so strictly, indeed, as to defeat the clear intention of Congress, but the words employed must be understood in the sense they were obviously used. *U. S. v. Wiltberger*, 5 Wheaton 85. If, taking the whole statute together, it is apparent that it was not the intention of Congress thus to limit the operation of the Act, we cannot give it that effect."

1876. *Henderson v. Mayor*, 92 U. S. 259, 268. "In whatever language a statute may be framed, its purpose must be determined by its natural and reasonable effect; and if it is apparent that the object of this statute, as judged by that criterion, is."

1877. *Hydenfeldt v. Daney Gold and Silver Mining Co.*, 93 U. S. 634. "It is true that there are words of present grant in this law; but in construing it, we are not to look at a single phrase in it, but to its whole scope, in order to arrive at the intention of the makers of it."

1878. *Neal v. Scruggs*, 95 U. S. 704. "Such construction of the statute is consonant with equity, and consistent with the object and intention of Congress."

1878. *U. S. v. Moore*, 95 U. S. 760. "Such a result could not have been intended by Congress."

1878. *Kohlsaat v. Murphy*, 96 U. S. 153. "In the exposition of statutes, the established rule is that the intention of the lawmaker is to be deduced from a view of the whole statute, and every material part of the same."

1879. *The Abbotsford v. Johnson*, 98 U. S. 440. "Having that meaning, therefore, it is to be presumed they were used in that sense in this instance, unless the contrary is in some way made to appear."

1879. *Platt v. Union Pacific R. R.*, 99 U. S. 48. "All will concede that in construing the Act of 1862 we are to look at the state of things then existing and, in the light then appearing, seek for the purpose and objects of Congress in using the language they did. And we are to give such construction to that language, if possible, as will carry out the congressional intentions."

1879. *Newton v. Commissioners*, 100 U. S. 548. "There must have been a deliberate intention clearly manifested on the part of the State to grant what is claimed. Such a purpose cannot be inferred from equivocal language."

1879. *Washington Market Co. v. Hoffman*, 101 U. S. 112. "It was said to be the undoubted duty of the court to ascertain the meaning of the Legislature from words used in the statute and the subject

matter to which it relates and to restrain its operation within narrower limits than its words import, if the court is satisfied that the literal meaning of its language would extend to cases which the Legislature never designed to include in it."

1881. *Wilson Co. v. Third National Bank*, 103 U. S. 770. "What is implied in a statute is as much a part of it as what is expressed."

1883. *U. S. v. Forty-three Gallons of Whisky*, 108 U. S. 491. "It would require very clear expressions in any general legislation to authorize the inference that Congress purposed to depart from its long established policy in regard to a matter of such vital importance to the peace and to the material and moral well being of these wards of the Nation."

1883. *Claffin v. Com. Ins. Co.*, 110 U. S. 81. "We are bound to take the words of the law in their usual ordinary and literal meaning, and to construe the two provisions in the different sections in the same sense which, in previous statutes, had uniformly been given to them and not invent a new application and relation of the two clauses without any indication whatever of any intention on the part of Congress to that effect."

1885. *Thornley v. U. S.*, 113 U. S. 310. "We are not called on to explain why Congress should apply one rule to the officers of the army and another to the officers of the navy. It is sufficient to say that it has clearly done so."

1887. *U. S. v. Johnston*, 124 U. S. 236. "It is impossible to suppose that Congress intended "

1887. *U. S. v. Mouat*, 124 U. S. 303. "it will be the duty of the court in construing such an Act of

Congress to ascertain its true meaning and be governed accordingly."

1887. *U. S. v. Hendee*, 124 U. S. 309. "We are of opinion that the word "officer" is used in that statute in the more general sense which would include a paymaster's clerk; that this was the intention of Congress is its enactment."

1887. *Hannibal, etc., v. Missouri River, etc.*, 125 U. S. 260. "We concur with the court below that we must look to the spirit and reason of this provision of the law, and construe it with reference to its evident purpose."

1889. *Lake County v. Rollins*, 130 U. S. 662. "So, also, where a law is expressed in plain and unambiguous terms, whether those terms are general or limited, the Legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction."

1889. *Yazoo, etc., v. Thomas*, 132 U. S. 174. "the necessity of resorting to it to assist in ascertaining the true intent and meaning of the Legislature."

1889. *Vane v. Newcombe*, 132 U. S. 220. "may be referred to in order to discern the intent of the Legislature."

1889. *United States v. Lacher*, 134 U. S. 624. "For the purpose of arriving at the true meaning of a statute, courts read with such stops as are manifestly required."

1892. *Church of the Holy Trinity v. U. S.*, 143 U. S. 457. "Among other things which may be considered in determining the intent of the Legislature is the title of the Act."

1892. *Law Ow Bew v. U. S.*, 144 U. S. 47. "Nothing is better settled than that statutes should receive a sensible construction, such as will effectuate the legislative intention, and, if possible, so as to avoid an unjust or an absurd conclusion."

1897. *In re Chapman*, 166 U. S. 661. "nothing is better settled than that statutes should receive a sensible construction, such as will effectuate the legislative intention, and, if possible, so as to avoid an unjust or an absurd conclusion."

1897. *U. S. v. Goldenberg*, 168 U. S. 95. "The primary and general rule of statutory construction is that the intent of the Law maker is to be found in the language that he has used. He is presumed to know the meaning of the words, and the rules of grammar. The courts have no function of legislation and simply seek to ascertain the will of the legislator."

1899. *Chew Hing Lung v. Wise*, 176 U. S. 156. "The omission of root flour from the free list, therefore, had no effect on tapioca flour, and if there had been an intention to include it in the dutiable list, especially after these repeated decisions of the Treasury that it was entitled to free admission as tapioca, we cannot but believe that Congress would have expressed that intention with reasonable clearness."

1901. *Rodgers v. U. S.*, 185 U. S. 83. "The primary rule of statutory construction is, of course, to give effect to the intention of the legislature."

1901. *Chesapeake, etc., v. Manning*, 186 U. S. 238. "In other words did Congress intend to cover."

1902. *U. S. v. Barringer*, 188 U. S. 577. "What was intended by the Act of Congress, 1888, is moreover shown by an Act passed by the very same Congress at the same session."

1902. *Hawaii v. Mankichi*, 190 U. S. 197. "the books are full of authorities to the effect that the intention of the law making power will prevail even against the letter of the statute."

1903. *U. S. v. St. Anthony R. R.*, 192 U. S. 524. "although a liberal construction of the statute may be proper and desirable, yet the fair meaning of the language used must not be unduly stretched for the purpose of reaching any particular case which, while it might appeal to the Court, would yet pretty plainly be beyond the limitation contained in the statute."

1903. *Interstate Commerce Commission v. Baird*, 194 U. S. 25. "The object of construction, as has been often said by the Courts and writers of authority—is to ascertain the legislative intent, and, if possible, to effectuate the purpose of the law-makers."

1904. *Kepner v. U. S.*, 195 U. S. 100. "In order to determine what Congress meant in the language used in the Act under consideration * * * We must look to the origin and source of the expression and the judicial construction put upon it before the enactment in question was passed. A consideration of the events preceding this regulation makes evident the intention of Congress."

1904. *Crawford v. Burke*, 195 U. S. 176. "Our own view, however, is that a change in phraseology creates a presumption of a change in intent, and that Congress would not have used such different lan-

guage in section 17 from that used in section 33 of the Act of 1876, without thereby intending a change of meaning."

1904. *U. S. v. United Verde Copper Co.*, 196 U. S. 207. "This definition of domestic gives the word an apt and sensible meaning, and we must regard the association of the word 'other' with it as designed, not as accidental."

1904. *U. S. v. Crosley*, 196 U. S. 327. "But we think this is too narrow a construction of the terms of the act, in view of its intent and purpose. For while we may not add to or take from the terms of a statute, the main purpose of construction is to give effect to the legislative intent as expressed in the act under consideration."

1906. *U. S. v. Falk*, 204 U. S. 143. "I cannot find any solid reason for believing that the Congress did not have Section 2983 in mind when it enacted said Section 20, as amended."

1907. *American Tobacco Co. v. Werckmeister*, 207 U. S. 284. "But while seeking to gain the legislative intent primarily from the language used, we must remember the objects and purposes sought to be attained."

1909. *Pickett v. U. S.*, 216 U. S. 456. "The reason of the law, as indicated by its general terms, should prevail over its letter, when the plain purpose of the Act will be defeated by strict adherence to its verbiage."

1910. *Louisville & Nashville R. R. v. Mottley*, 219 U. S. 467. "Our duty is to ascertain the intention of Congress in passing the statute * * * That intention is to be gathered from the words of the Act, interpreted according to their ordinary accepta-

tion, and, when it becomes necessary to do so, in the light of the circumstances as they existed when the statute was passed."

1911. *Southern Ry. Co. v. U. S.*, 222 U. S. 20. "As between the two opposing views, * * * the latter is to be preferred, first, because it is in accord with the manifest purpose, shown throughout the amendatory act."

1911. *Jacobs v. Pritchman*, 223 U. S. 200. "It could not have been intended that, etc."

While we have not, of course, attempted to quote from every decision of this Court on the subject of intent, we think we have shown beyond dispute that the attitude of the Supreme Court of the United States has always been that the intent of Congress is the law and fixes the meaning of the statute.

POINT THREE.

Congress, by its own legislation on the subject of Allowances, Bounties, Drawbacks and Grants, from 1791 to date, has clearly indicated that paragraph E of Section IV of the Tariff Act of October 3, 1913, was not intended to include these British Allowances as subjects of countervailing duty, but was so worded as to continue the custom of fifty-three years' standing to admit British Spirits, plain or compound, without countervailing duty.

Congress has had these four words, Allowance, Drawback, Bounty and Grant, before it for pur-

poses of tariff legislation ever since 1789. We venture to assert that any member of the Congresses which passed the Tariff Acts of 1897, 1909 and 1913, who was told that Congress did not appreciate the difference between the British Allowance on spirits, the Russian Bounty on sugar, and the Canadian camouflaged Bounty on wood pulp when Congress passed either of these three Acts, would have been surprised and, perhaps, insulted.

In view of the evident fact that various Congresses had passed tariff legislation dealing with Draw backs; dealing with Allowances; dealing with Bounties and dealing with Grants; it is, we submit, an extraordinary step which the Court below has taken in holding that Congress in using two of these four terms, intended to include one or both of the other two.

As before stated, the paragraph in dispute, paragraph E of Section IV of the Act of October 3, 1913, is not a new provision of law. It was taken bodily from section 6 of the Act of 1909, and that in turn had been taken bodily from section 5 of the Act of 1897. This double re-enactment of language brings the paragraph under two comparatively recent decisions of this Court.

In *Copper Queen Mining Co. v. Arizona Board*, 206 U. S. 474, this Court said: "And again, when for a considerable time a statute notoriously has received a construction in practice from those whose duty it is to carry it out, and afterwards is re-enacted in the same words, it may be presumed that the construction is satisfactory to the legislature, unless plainly erroneous, since otherwise, naturally the words would have been changed."

And in *U. S. v. Hermanos y Compana*, 209 U. S. 337, this Court said: "And we have decided that the re-enactment by Congress, without change of a statute, which had previously received long con-

tinued executive construction, is an adoption by Congress of such construction."

We invoke those two decisions as decisive of the present case.

No one can dispute that the Treasury Department is a part of the Executive. No one can dispute that during the period from 1897 to October 3, 1913, the Treasury Department was the Department whose duty it was to carry the statute out. Nor can any one deny that at the time of the first passage of this paragraph in 1897, countervailing duties had been imposed and collected on sugar under the Acts of 1890 and 1894, where the only word used was "Bounty".

No one can deny that between the first passage of this paragraph in 1897, its re-enactment in 1909 and its final re-enactment in 1913, the Treasury Department had imposed and collected countervailing duties on various other goods besides sugar. But the Department had never collected countervailing duties on British spirits, although the Allowances now in dispute had been continuously paid by Great Britain ever since 1860.

Especially significant is the fact that early in 1911 the Treasury Department thought of imposing a countervailing duty on British Spirits, but decided that Congress had not intended such duty to be imposed, and, therefore, refrained.

It is inconceivable that Congress did not have these things in mind when it re-enacted this paragraph of the Act of 1897 for the second time.

Several decisions by this Court seem directly in point.

The enactment of a new Tariff Act in this country is a matter long drawn out before Congress; there are hearings in committee and otherwise, investigations, reports and a great variety of details before an agreement is reached as to the language of the Act. Under these well known conditions,

why does not the question of these British Allowances come within the same category as the question of which the Court said in *U. S. v. Falk*, 204 U. S. 43, that the Court "cannot find any sound reason for believing that Congress did not have it in mind" when it re-enacted said section 20?

Or, again, why should not the absence of any change in phraseology here be as significant as the presence of change in phraseology commented upon by this Court in *Crawford v. Burke*, 195 U. S. 176. "Our own view, however, is that a change in phraseology creates a presumption of a change in intent, and that Congress would not have used such different language in section 17 from that used in section 33 of the Act of 1867, without thereby intending a change of meaning?"

Why does not the language of this Court in *Chew Hing Lung v. Wise*, 176 U. S. 156, apply? "If there had been an intention to include it in the dutiable list, especially after these repeated decisions of the Treasury that it was entitled to free admission as tapioca, we cannot but believe that Congress would have expressed that intention with reasonable clearness." Or the language of this Court in *Claffin v. Commonwealth Insurance Co.*, 110 U. S. 81: "We are bound to take the words of the law in their usual, ordinary and literal meaning, and to construe the two provisions in the different sections in the same sense which, in previous statutes, had uniformly been given to them and not invent a new application and relation of the two clauses without any indication whatever of any intention on the part of Congress to that effect?"

Why should the Government in 1914 invent a new application of section 5 of the Act of 1897 and seek to impose under the same language, in the Act of 1913, a countervailing duty which it had never imposed under the identical language of the Acts of 1897 and 1909?

Is not the present attitude of the Court of Customs Appeals in the decision complained of that which was warned against by this Court in *Platt v. Union Pacific R. R.*, 99 U. S. 48, decided in 1879, seventeen years after the passing of the Act in question? "All will concede that in construing the Act of 1862 we are to look at the state of things then existing and, in the light then appearing, seek for the purposes and objects of Congress in using the language they did. * * * There is always a tendency to construe statutes in the light in which they appear when the construction is given. It is easy to be wise after we see the results of experience. We may now think it quite possible. * * * But in endeavoring to ascertain what the Congress of 1862 intended, we must, as far as possible, place ourselves in the light that Congress enjoyed, look at things as they appeared to it, and discover its purpose from the language used in connection with the attending circumstances."

In construing an act of an entirely different nature, this Court, in *U. S. v. Reese*, 92 U. S. 214, lays its hand on just what the Court of Customs Appeals has attempted to do in this case, saying: "The proposed effect is not to be attained by striking out or disregarding words that are in the section, but by inserting those that are not now there."

The Court of Customs Appeals purposes to read paragraph E as if it said "Allowance, Bounty, Drawback or Grant", thus putting in the two words "Allowance" and "Drawback" when Congress has three times confined itself to the words "Bounty" and "Grant" in this special legislation, although it had used the words "Allowance" and "Drawback" in previous legislation, and had used the word "Bounty" alone in the previous sugar legislation.

This Court in *Cornell v. Coyne*, 192 U. S. 48, remarks that "to remit on articles exported, the tax

which is cast upon other like articles consumed at home, while perhaps not technically a Bounty on exportation has some of the elements thereof."

This remission of the tax is generally known as a Drawback, and this Court in the *Passavant* case, 169 U. S. 23, seems to have regarded that as a part of the market value in the home market of the country from which the goods were exported. Therefore, the Board of Appraisers, in the present case, explains the failure on the part of the Collector to countervail that Drawback as an additional duty in this case on that ground.

The Court of Appeals seems to hint that British spirits should be countervailed to the amount of the remitted Excise tax of 14s. and 9d. per gallon. It, therefore, differs from the Treasury Department as to the meaning of paragraph E.

We have here, therefore, the anomaly of letting the big remission go (for that remission of the Excise tax applies to all exportation of British spirits) and seizing upon the small Allowances (which, at most, are only paid on a technically separated class of spirits, whether exported or not).

It seems to us that the Board of General Appraisers and the Court of Customs Appeals, by the decisions complained of, have done exactly what this Court said not to do in *U. S. v. St. Anthony R. R.* 192 U. S. 524. The Court said: "The fair meaning of the language used must not be unduly stretched for the purpose of reaching any particular case which, while it might appeal to the Court, would yet pretty plainly be beyond the limitation contained in the statute."

And what the Secretary of the Treasury has undertaken to do in regard to British Spirits seems to us to be just what this Court in *U. S. v. United Verde Copper Co.*, 196 U. S. 207, said ought not to be done by the Secretary of the Interior. The Court said: "The Secretary of the Interior attempts

by it to give an authoritative and final construction of the statute. This, we think is beyond his power. * * * If he can define one term, he can another. If he can abridge, he can enlarge. Such power is not regulation; it is legislation. The power of legislation was certainly not intended to be conferred upon the Secretary."

It seems to us that one statement by this Court in *Smythe v. Fiske*, 23 Wall. 374, is especially applicable to the case here: "The pre-existing law and the reason and purpose of the new enactment are also considerations of great weight."

The pre-existing law when the Tariff Act of 1897 was passed was that no countervailing duty had ever been levied on anything but sugar and that the only word to determine whether or not a countervailing duty should be imposed used in that pre-existing law was the word "Bounty". The reason and purpose of the new enactment was, obviously, to include every kind of merchandise on which a Bounty on exportation had been paid (as well as sugar), and to extend the word "Bounty" to cover such dodges and artifices as had been adopted in the case of sugar in the attempt to get away from the technical meaning of the word "Bounty" by using the somewhat different term, "Grant".

Allowances and Drawbacks were then well known, and neither of those words was put into the law of countervailing duty. Why not?

Because: the obvious reason and purpose (in a negative sense) was to permit the continuance of this custom of admitting free from countervailing duty British spirits upon which the Allowance in question had then been paid by the British Government for a period of thirty years before Congress

imposed a countervailing duty on anything. This custom had continued during the seven years of countervailing bounty-fed sugar.

This reason and purpose remained the same when Congress re-enacted the identical paragraph in 1909 and 1913, and was intended to cover the continuance of this free admission during the two periods of twelve and four years respectively, in which countervailing duties were fastened on all bounty-fed goods and all grant-fed goods, but never on British spirits to offset these Allowances.

If the Court desires citations of its own prior decisions, recognizing the propriety and frequent necessity of considering the history of the period and the environment at the time of legislation, in order to arrive at the true meaning of an Act, we invite its attention to the following cases, most of which we have already cited above:

- Standard Oil Co. *v.* U. S., 221 U. S. 1.
- Louisville & Nashville R. R. *v.* Mottley, 219 U. S. 467.
- Kepner *v.* U. S., 195 U. S. 100.
- U. S. *v.* Trans Missouri Freight Association, 166 U. S. 290.
- Smith *v.* Townsend, 148 U. S. 490.
- Church of the Holy Trinity *v.* U. S. 143 U. S. 457.
- Vane *v.* Newcombe, 132 U. S. 220.
- Platt *v.* Union Pacific R. R., 99 U. S. 48.
- Smythe *v.* Fiske, 90 U. S. 374.

And if the Court desires citations of its own prior decisions to the point that the construction of a statute made by the Department entrusted with the duty to administrate that statute is entitled to weight where any ambiguity exists, we invite the

Court's attention to the following cases, some of which we have already cited above:

In doing so, we repeat that this special point will be discussed more fully by the Counsel in the companion case, No. 310.

Stuart v. Laird, 1 Cranch, 299.

Lessee of Pollards' Heirs v. Kibbe, 14 Pet. 353.

Swift v. U. S., 105 U. S. 691.

Hahn v. U. S., 107 U. S. 402.

U. S. v. Graham, 110 U. S. 219.

Brown v. U. S., 113 U. S. 568.

Cooper Mfg. Co. v. Ferguson, 113 U. S. 727.

U. S. v. Philbrick, 120 U. S. 52.

U. S. v. Hill, 120 U. S. 169.

Robertson v. Downing, 127 U. S. 607.

German Savings Bank v. Franklin County, 128 U. S. 526.

Merritt v. Cameron, 137 U. S. 542.

St. Paul, etc., R. R. v. Phelps, 138 U. S. 528.

Schell v. Fauché, 138 U. S. 562.

Heath v. Wallace, 138 U. S. 573.

U. S. v. Alabama R. R., 142 U. S. 615.

U. S. v. Alger, 152 U. S. 384.

U. S. v. Sweet, 189 U. S. 471.

U. S. v. Hermanos y Compana, 209 U. S. 337.

The practice of the Treasury Department not to levy a countervailing duty under the paragraph in question on British spirits lasted from 1897 to 1914, a period of seventeen years. This contemporaneous construction was upset by T. D. 34,466 of May 25, 1914.

This upsetting of the previous practice was apparently not approved of by the Attorney General, who is quoted therein as saying that the question

"is one better fitted for Judicial determination than for an expression of his opinion."

This failure to approve is significant in view of the fact that the then Attorney General had approved T. D. 31,490 revoking 31,229 which had first imposed this C. V. D.

No Precedent.

As far as we have been able to sift the matter there is no precedent whatever for imposing this C. V. D. on British Spirits.

Neither the learned and painstaking counsel for the Government, nor the Court of Customs Appeals has cited us to any case in which a C. V. D. has been imposed on British Spirits or on any other article as to which an "Allowance", such as here involved, has been bestowed.

Although the provision for countervailing against Bounties and Grants in the Acts of 1897, 1909 and 1913, is against goods of any character or country, there never seems to have been any case which has reached the Courts involving a C. V. D. except as regards Sugar.

We will not take up much time of the Court on this negative proposition. Learned Counsel in the companion case 310 will probably discuss the pertinence or lack of pertinence of the cases relied upon by the Government and the Court below. We will confine our remarks to saying that:

The Russian Sugar Bounty Case (*Downs v. U. S.*, 187 U. S. 496), the Netherlands Sugar Bounty Case (*Hills v. U. S.*, 107 Fed. 107), and the German Sugar Bounty Case (T. D. 19256, G. A. 4133) were clearly cases of Bounties on exportation, their facts being radically different from the facts here.

The two Wood Pulp cases, *Myers v. U. S.*, 140 Fed. 648, and *Heckendorn v. U. S.*, 162 Fed. 141,

arose under paragraph O (not E) as duty imposed on export of raw materials and not Bounty on exportation of finished Product.

Of these five cases only one, the Downs case, reached this Court.

There is no other case, so far as we know.

The point presented is, therefore, entirely *new*.

We respectfully submit that this question, now presented for the first time, is of sufficient importance to receive the most careful examination.

Molasses.

We think we have shown, convincingly, that Congress intended not to include the Allowances on British spirits as a proper countervailing duty.

If that is so, then the intent of Congress should be regarded as the law and the Allowances should not be countervailed.

But an interesting question (perhaps academic) remains: Why did Congress wish to omit Allowances and Drawbacks from the imposition of a C. V. D.?

The answer seems to be found in our own prior tariff legislation.

In 1897 Congress seems to have resented the growing custom of other countries to give Bounties or Grants on sugar, wood pulp and other commodities, and desired to offset those Bounties or Grants by special tariff provisions.

As graphically pictured by this Court in *U. S. v. Realty Co.*, 153 U. S. 427, Congress had just been in an awkward situation with regard to sugar Bounties. In 1890 Congress, desiring to encourage the production of beet sugar in the United States, had granted a Bounty thereon. This Bounty was to protect the sugar growers against a reduction of

the high import duty on West India sugar. Perhaps it was an added protection that a C. V. D. was laid on Bounty-fed sugar, as obviously, if Cuba or other foreign countries offset the reduced import duty on sugar by giving a Bounty on export, our revenue would suffer without benefit to our own sugar producers.

Before 1897 serious doubts had been raised as to the power of Congress to bestow a Bounty on beet sugar. Clamors had been heard that the law was unconstitutional. Congress had thereupon repealed the law. Claims had come in against the Government for damages because of sugar crops planted in view of the law. Congress passed a law to reimburse planters for losses thereby.

With all this before it, Congress enacted the Tariff Act of 1897, in which Bounties and Grants were countervailed.

Congress had already legislated more or less frequently as to Drawbacks and Allowances. It took care of Drawbacks in its own way, but it kept Allowances out of the countervailing duty paragraph of the Act of 1897.

The only known Allowances, apparently, bestowed by foreign governments on articles which might be shipped to this country, were those on British spirits. For thirty-seven years (ever since 1860), as Congress well knew, Great Britain had been granting these Allowances on British spirits. Great Britain, therefore, would have been the only country immediately affected had these Allowances been countervailed. Congress was satisfied with its own treatment of the liquor question and saw no cause for annoyance or alarm in allowing British spirits to come in without a countervailing duty.

We are not to assume that distillers in this country from 1861 to 1897 were any less wide awake than the sugar growers. Nor are we to assume that

Congress would have been any less ready to impose a countervailing duty on Bounty-fed liquor and on Bounty-fed sugar.

But Congress evidently regarded these British Allowances not as a Bounty or Grant, but a perfectly legitimate thing for a Government to do.

In fact, Congress had done the same thing itself years before and (apparently), had not raised any such storm about its head for making an Allowance on distilled spirits which it had by bestowing a Bounty on beet sugar.

The policy inaugurated by Great Britain in 1860, when it established its Internal Revenue system, was only what Congress had done in 1791 when it established our first Internal Revenue system.

Section 51 of our Internal Revenue Act of March 3, 1791 (1st U. S. Stat. 210), reads as follows:

“Be it further enacted, That if any of the said spirits (whereupon any of the duties imposed by this act shall have been paid or secured to be paid) shall, after the last day of June next, be exported from the United States to any foreign port or place, there shall be an allowance to the exporter or exporters thereof, by way of a drawback, equal to the duties thereupon, according to the rates in each case by this act imposed, deducting therefrom half a cent per gallon, and adding to the *allowance* upon spirits distilled within the United States, *from molasses*, which shall be so exported, three cents per gallon, *as an equivalent for the duty laid upon molasses by the said act*, making further provision for the payment of the debts of the United States: Provided always, That the said allowance shall not be made, unless the said exporter or exporters *shall observe the regulations* hereinafter prescribed: And provided further, That nothing herein contained shall be construed to alter the provisions in the said former act, concerning drawbacks or allowances, in nature thereof, upon spirits imported prior to the first day of July next.”

Just as Congress allowed a Drawback equal to the duties imposed if the spirits were exported, so did Great Britain remit the Excise tax on British spirits exported.

Just as Congress gave an Allowance of three cents per gallon upon spirits distilled in the United States from molasses when the exporter observed the regulations which were provided in the Act of 1791, and only upon such observance, so Great Britain, in 1860, made an Allowance of 2d. per gallon when the exporter observed the regulations set forth in the Act of 1860. Could anything more clearly show that Congress made a deliberate choice as to the language of section 5 of the Act of 1897 than the facts shown? Ever since the year 1789 Congress had had four words connected with tariff legislation before it. Drawbacks had been provided for by Congress in the Act of July, 1789. Allowances had been provided for in the Act of 1791. Sugar Bounty had been countervailed by the Acts of 1890 and 1894. Neither Allowances nor Drawbacks had been countervailed. Recently certain countries had attempted to disguise Sugar Bounty by some other form of Grant. Congress was anxious to prevent this sugar Bounty from masquerading as a Grant. Congress knew that Great Britain had been granting Allowances and Drawbacks on British spirits for nearly forty years.

Had Congress intended to countervail these British Spirits because of the Allowances or Drawbacks, would it not have included whichever of those two words, Allowance or Drawback, applied to the case in the paragraph of section 5?

Well, Congress did not put the word Allowance in the paragraph, and the Treasury Department immediately began to countervail sugar and every other article of merchandise on which a Bounty or Grant had been paid or bestowed on exportation.

But the Treasury Department did not attack these British spirits. Twelve years elapsed, during all of which British spirits received their statutory Allowances and were admitted here without any countervailing duty. Congress again passed a Tariff Act with a countervailing duty paragraph and again confined that paragraph to the words Bounty and Grant.

This Court has held (*supra*) that such re-enactment without change of phraseology shows that Congress was satisfied with the way the language had been interpreted and acted upon by the Government.

Four years more passed during all of which British spirits received their statutory Allowances and were admitted here without countervailing duty, although a short lived attempt, revoked almost immediately, was made by the Treasury Department early in 1911 to construe these Allowances as a Bounty. The decision, T. D. 31490, holding these Allowances were not a Bounty seems to have met with the approval of the Attorney General of the United States.

Congress then, in October, 1913, for the third time, enacted an identical paragraph for countervailing duty which was limited to the words Bounty and Grant. This was the final word of Congress on the subject and tantamount to a recognition as correct of the construction, which, for sixteen years, had been put upon that paragraph by the English Distillers and Exporters, the American Importers and Dealers and the United States Treasury and Customs Officials.

What more could the learned Counsel for the Government in this case expect Congress to do?

Would they have Congress drop its dignified reiteration of the words Bounty and Grant and substitute the frank but somewhat school-boyish statement "British Allowances not included in the above"?

Conclusion.

We respectfully submit that the intent of Congress is manifested as not including British spirits upon which the statutory Allowances have been paid, as coming under the countervailing duty clause of the Act of October 3, 1913.

That such intent so manifested is the law.

The imposing and collecting of a countervailing duty by the Treasury Department in this case was based upon the wrong construction of a statute and should be set aside.

The decision of the Court of Customs Appeals should be reversed.

Respectfully submitted,

W. P. PREBLE,

Attorney for Alex. D. Shaw & Co.

New York, April 8, 1918.

Countervailing Duty Cases
Nos. 62 and 63.

IN THE
Supreme Court of the United States
OCTOBER TERM, 1918.

No. 62.

G. S. NICHOLAS & Co., et al.,
Petitioners,

v.

THE UNITED STATES.

No. 63.

ALEX. D. SHAW & Co., et al.,
Petitioners,

v.

THE UNITED STATES.

COPY OF PORTIONS OF EXHIBITS.

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COPY OF PORTIONS OF EXHIBITS.

For convenience of reference the principal portions of the exhibits referred to in the briefs are copied here.

Exhibit 1(a).**Spirits Duties Act, 1860.**

ANNO VICESIMO TERTIO & VICESIMO QUARTO.

Victoriae Reginae.

CHAP. CXXIX.

AN ACT to grant Excise Duties on British Spirits
and on Spirits imported from the Channel
Islands (28th August, 1860).

* * * * *

ALLOWANCES.

IV. In consideration of the Loss and Hindrance caused by Excise Regulations in the Distillation and Rectification of Spirits in the United Kingdom, there shall be paid to any Distiller or Proprietor of such Spirits on the Exportation thereof from a Duty-free Warehouse, or on depositing the same in a Customs Warehouse, on or after the Fifth Day of *March*, One thousand eight Hundred and sixty, the Allowance of Twopence *per* Gallon computed at Hydrometer Proof, and to any licensed Rectifier who on or after the said last-mentioned Day has or shall have deposited in a Customs Warehouse Spirits distilled and rectified in the United Kingdom the following Allowances; (that is to say), on rectified Spirits of the Nature of *British* Compounds not exceeding Eleven Degrees over Proof as ascertained by *Sykes's* Hydrometer an Allowance of Three pence per Gallon, and on Spirits of the

Nature of Spirits of Wine an Allowance of Two-pence *per* Gallon, such Gallons being computed respectively at Hydrometer Proof.

Exhibit 1 (b).

28TH AND 29TH VICT., CHAPTER 98, 1865.

AN ACT to allow British Compounded Spirits to be warehoused upon drawback.

* * * * *

SEC. 12. The allowance of 3d. per gallon granted by Section 4 of the Act passed in the 23rd and 24th years of Her Majesty's reign, Chapter 129, to any licensed rectifier in respect of rectified spirits of the nature of British Compounds not exceeding 11 degrees over proof, as ascertained by Sykes's hydrometer, shall be payable to any licensed rectifier or compounder in respect of any compounded spirits deposited under the provisions of this Act in any warehouse of customs or excise, and exported to foreign parts, or used in a customs warehouse for fortifying wines or for any other purposes to which foreign or Colonial spirits may be applied under the laws or regulations of the customs; but such allowance shall not be paid until the certificate from the proper officer of customs shall be produced to the officer of excise appointed to pay the said allowance, that such spirits have been actually exported or used as aforesaid.

Exhibit 1(c).**Spirits Act, 1880.****CHAPTER 24.**

AN ACT to consolidate and amend the Law relating to the Manufacture and Sale of Spirits.
(26th August 1880.)

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PRELIMINARY.

1. This Act may be cited as the Spirits Act, 1880.
2. This Act shall come into operation on the first day of January one thousand eight hundred and eighty-one, which date is in this Act referred to as the commencement of this Act.
3. In this Act each of the following terms shall have the meaning assigned to it by this section, unless it is otherwise expressly provided, or there is something in the subject or context inconsistent with such meaning,—

“Spirits” means spirits of any description, and includes all liquors mixed with spirits, and all mixtures, compounds, or preparations, made with spirits:

“Low wines” means spirits of the first extraction conveyed into a low wines receiver:

"Feints" means spirits conveyed into a feints receiver:

"British spirits" means spirits liable to a duty of Excise:

"Plain spirits" means any British spirits (except low wines and feints), which have not had any flavour communicated thereto or ingredient or material mixed therewith:

"Spirits of wine" means rectified spirits of the strength of not less than forty-three degrees above proof:

"British compounds" means spirits redistilled or which have had any flavour communicated thereto, or ingredient or material mixed therewith:

"Foreign spirits" means all spirits and strong waters liable to a duty of Customs:

"Sugar" includes any saccharine substance or syrup manufactured from any material from which sugar can be manufactured:

"Commissioners" means the Commissioners of Inland Revenue:

"Methylate" means to mix spirits with some substance in such manner as to render the mixture unfit for use as a beverage, and "methylated spirits" means spirits so mixed to the satisfaction of the Commissioners:

"Proof" means the strength of proof as ascertained by Sykes's hydrometer:

"Still" includes any part of a still, and any distilling apparatus whatever for distilling or making spirits:

"Distiller," "rectifier," "dealer," and "retailer," mean respectfully a person who distills, rectifies, or compounds, deals in, or retails spirits:

"Excise trader" means any person carrying on a business subject to any of the regulations of this

Act, and includes a malster who makes malt duty-free for distillation and any proprietor or occupier of an excise warehouse:

"License" means a license granted by the Commissioners or by an officer duly authorized by them; and "licensed," as applied to an Excise trader, means a person holding a license so granted for the purpose of his business:

"Premises," when used with reference to an Excise trader, means any building or place used by him in the course of his business, and of which entry is required to be made:

"Prescribed" and "approved" mean respectively prescribed or approved by the Commissioners:

"Warehouse" means any warehouse approved or provided for the deposit of spirits:

"Distiller's warehouse" means an approved warehouse on the premises of a distiller:

"Excise warehouse" means a warehouse approved or provided by the Commissioners as a general warehouse for the deposit of spirits:

"Customs warehouse" means a warehouse approved or provided by the Commissioners of Customs for the deposit of spirits:

"Collector" means the collector of Inland Revenue, and in connection with the business of an Excise trader means the collector for the collection in which the premises of the trader are situate, and includes a person acting as such collector:

"Officer" means officer of Inland Revenue:

"Proper officer" means the officer of the division or ride in which the business of an excise trader is carried on, or in which anything is by this Act required to be done by, or any notice to be given to, such officer, and includes a person acting as

such officer, and also any officer superior in matters of Excise to such officer :

“Writing” includes print, and “written” includes printed :

“Justice” means a justice of the peace or a magistrate having jurisdiction for the county or place where any offence is committed or suspected to have been committed, or any offender is apprehended or found, or any goods or commodities are seized or liable to seizure or suspected to be so liable :

“County or place” includes a city, county of a city, county of a town, borough, liberty, division, franchise, or other place of magisterial jurisdiction :

“Schedule” means schedule of this Act.

4. This Act is divided into parts, as follows:—

Part I.—Spirits other than Methylated Spirits.

Part II.—Methylated Spiritis.

Part III.—Supplemental.

PART I.

SPIRITS OTHER THAN METHYLATED SPIRITS.

General.

5. (1) No person may, without being licensed to do so, or on any premises to which his licence does not extend—

(a) Have or use a still for distilling, rectifying, or compounding spirits; or

(b) Brew or make wort or wash, or distil low wines, feints, or spirits; or

(c) Rectify or compound spirits.

(2) If any person contravenes this section he shall for each offence incur a fine of five hundred pounds, and all spirits, and vessels, utensils, and materials for distilling or preparing spirits in his possession shall be forfeited.

6. Every person who makes or keeps wash prepared or fit for distillation, or low wines or feints, and has in his possession or use a still, shall, as respects the duties, penalties and forfeitures imposed by law on distillers, be deemed to be a distiller.

7. (1) In England if a distiller keeps or uses a still of which the body, without the head, is of less capacity than three thousand gallons he must not keep or use in his distillery at the same time more than two wash stills and two low wine stills.

(2) For every still kept or used in contravention of this section the distiller shall incur a fine of one hundred pounds, and a further fine of one hundred pounds for every time that any such still is used; and every still kept or used in contravention of this section shall be forfeited.

8. (1) A person shall not have a licence to keep a still of less capacity than four hundred gallons, unless he has in use a still of that capacity, or produces to the Commissioners a certificate, signed by three justices for the county or place, that he is a person of good character, and fit and proper to be licensed to keep such a still, and that the premises in which he proposes to erect the still and of which he is in actual possession, are of the yearly value of ten pounds at least.

(2) If the still is intended to be kept by persons in partnership, a certificate to the above effect with regard to one of the partners shall be sufficient.

(3) The Commissioners may, if they think fit, refuse to grant the licence, notwithstanding the production of the justices' certificate; but, in case of refusal, they shall state the grounds thereof, in writing signed by them, to the justices.

Distiller's Premises.

9. (1) A person shall not be entitled to a licence for, or be permitted to make entry of, a distillery, unless it is situate in or within a quarter of a mile of a market town.

(2) The Commissioners may, if they think fit, grant a licence for, and permit entry to be made of, a distillery situate beyond these limits, on the terms of the distiller providing to their satisfaction lodgings for the officers to be placed in charge of the distillery.

(3) The lodgings must be conveniently situate and must not form part of the distillery or of the distiller's dwelling-house, and the rent charged for them, unfurnished, must not exceed fifteen pounds a year.

(4) If a distiller, to whom a license is granted on these terms fails to provide the lodgings, or to keep them in repair, or interrupts or annoys any officer residing therein in his use or enjoyment thereof, the Commissioners may suspend or revoke his licence.

10. (1) No person may make entry of or use for brewing or making wort, or wash, or for distilling spirits, or for receiving or keeping spirits

as a distiller, any premises within a quarter of a mile of any premises entered or used for rectifying or compounding spirits or for receiving or keeping spirits by a rectifier.

(2) If any person contravenes this section he shall incur a fine of five hundred pounds for every week during which the premises are so entered or used.

11. (1) A distiller may not carry on upon his premises the business of a brewer of beer, or a maker of sweets, vinegar, cider, or perry, of a refiner of sugar, or of a dealer in or retailer of wine.

(2) No person may carry on the business of a distiller upon premises communicating otherwise than by an open public street or carriage road with any premises used by a brewer of beer, or a maker of sweets, vinegar, cider or perry, or a refiner of sugar, or a dealer in or retailer of spirits or a dealer in or retailer of wine.

(3) If any person contravenes any of the foregoing provisions of this section he shall incur a fine of two hundred pounds.

(4) The Commissioners may refuse to grant a licence for distilling spirits in any premises in which, from their situation with respect to premises used for rectifying or compounding spirits, or to a brewery or vinegar manufactory, they think it inexpedient to allow the distilling of spirits.

12. The Commissioners may refuse to grant a licence to brew beer, or to make vinegar, on any premises in which, from their situation with respect to a distillery, they think it inexpedient to allow the brewing of beer or making of vinegar to be carried on.

Distiller's Spirit Store and Utensils.

13. (1) Every distiller must, to the satisfaction of the Commissioners, provide a spirit store and cause it to be properly secured.

(2) The spirit store must be kept locked by the officer in charge of the distillery at all times except when he is in attendance.

(3) If a distiller fails to provide or secure a spirit store as by this section required, the Commissioners may, until it is so provided and secured, refuse to grant him a licence, or suspend or revoke his licence.

14. (1) Every distiller must observe the rules contained in the First Schedule.

(2) For any contravention of the rules in the First Schedule penalties shall be incurred as follows:

(a) If there is found in a distillery any vessel in excess of the number permitted by the rules in the second part of the First Schedule, the vessel, with its contents, shall be forfeited, and the distiller shall incur a fine of two hundred pounds.

(b) For any contravention of the rules contained in the third part of the First Schedule the distiller shall incur a fine of two hundred pounds, and an additional fine of twenty pounds for every day during which the contravention continues.

(c) For any contravention of the rules contained in the fourth, seventh, or eighth part of the First Schedule the distiller shall incur a fine of two hundred pounds.

(d) For any contravention of the rules contained in the fifth, sixth, or tenth part of the First

Schedule, the distiller shall incur a fine of fifty pounds.

(e) Every cask not marked as required by the rules contained in the ninth part of the First Schedule, shall, with its contents, be forfeited.

(f) For any contravention of the rules contained in the eleventh part of the First Schedule, the wash, low wines, feints, or spirits in respect of which the rules are contravened shall be forfeited, and the distiller shall incur a fine of two hundred pounds, or, at the election of the commissioners, of twenty shillings for every gallon of such wash, low wines, feints, or spirits.

15. (1) A distiller may, on giving to the proper officer two days previous notice in writing of his intention, specifying the vessel, utensil, or pipe intended to be altered, moved, or added, alter or move any entered vessel, utensil, or pipe, or add a new vessel, utensil or pipe.

(2) Every such new vessel, utensil, or pipe must be duly entered.

(3) If a distiller, without giving such notice, alters, moves, or adds to the vessels, utensils, or pipes on his premises after entry has been made thereof, or the capacity thereof has been ascertained by the proper officer, he shall for each offence incur a fine of two hundred pounds.

16. The Commissioners may permit any distiller to fix and use subject to such regulations as they prescribe, any vessel, utensil, or fitting, in addition to or instead of any of those required by this Act, and may from time to time withdraw any such permission. This Act shall apply to any such addi-

tional or substituted vessel, utensil, or fitting as if its use were permitted or required by this Act.

17. If on the premises of any distiller any attempt is made or device used to prevent or hinder an officer from ascertaining the gravity, quantity, or strength of the wort, wash, low wines, feints, or spirits in any vessel, or whilst running, or to deceive him in taking the dip or gauge of any vessel or utensil, the distiller shall for each offence incur a fine of two hundred pounds.

18. If a distiller—

(a) Places, affixes, or makes any cock, plug, pipe, or opening in, on, to, into, or from any vessel or utensil in contravention of this Act; or

(b) Causes or procures any cover, fastening, cock, plug, pump, or pipe to be so made or used that any vessel or utensil may be employed, opened, removed, filled, or emptied, in the absence of an officer, or as in any manner to avoid or defeat the security intended to be provided by this act, he shall for each offence incur a fine of five hundred pounds.

Distiller's Entry.

19. (1) Every distiller must, before he begins to brew and wort, make entry of the vessels, utensils, fittings, and places intended to be used by him, by signing and sending or delivering to the proper officer an account in the prescribed form, setting forth with the prescribed particulars—

(a) His name and abode, and the situation of the premises intended to be entered; and

(b) A true and particular description of every vessel and utensil intended to be used on those premises for the purpose of his business; and

(c) Either—

(i) The number of gallons which every still, with its head, is capable of containing; or

(ii) The number of gallons of wash per hour which every still is capable of distilling; and

(d) The purpose for which each such vessel and utensil is intended to be used; and

(e) Every house, room, and place in which any part of his business is to be carried on, or any spirits are to be kept; and

(f) The purpose for which each such house, room, or place is to be used.

(2) In the account every vessel, utensil, house, room and place must be distinguished by the name and number painted thereon.

(3) No vessel, utensil, house, room, or place must be described in the account as intended to be used for more than one purpose.

(4) There must be delivered with the account a drawing, model, or description distinctly showing the course, construction, and use of all fixed pipes to be used, and of every branch thereof and cock thereon, and every place, vessel, or utensil with which any such pipe communicates.

(5) If a distiller makes entry of any vessel, utensil, house, room, or place as intended to be used for more than one purpose, he shall for each offence incur a fine of two hundred pounds.

(6) If any vessel, utensil, fitting, house, room, or place used by a distiller, for any purpose connected with his business,—

(a) is not specified in the account required to be delivered on making entry; or

- (b) is not numbered as so specified; or
- (c) is in any other place, or used or applied for any other purpose, than as so specified; or
- (d) does not, in all respects, correspond with the representation thereof as so specified:

the distiller shall, for each offence, incur a fine of five hundred pounds, and every such vessel or utensil, with its contents, and all spirits or materials for distilling spirits found in any such place, shall be forfeited.

20. An entry must not be withdrawn whilst there remains in any place mentioned therein, any still, or in any place, vessel or utensil mentioned therein, any materials preparing or fit for distillation, or any spirits liable to duty.

Materials for Distillation.

21. A distiller may use in the brewing or making of wort or wash any material of such nature that the gravity of the wort or wash produced therefrom can be ascertained by the prescribed saccharometer.

22. (1) A distiller must not distil spirits except from wort or wash brewed or made in his distillery.

(2) If a distiller has in his possession any wort, wash, low wines, feints, or fermented liquor not brewed, made, or distilled in his distillery, he shall forfeit the same, and also incur a fine of two hundred pounds.

23. (1) A distiller must not, without the consent of the commissioners, remove any sugar from

the place entered as a sugar store, except for use in the manufacture of spirits.

(2) Not less than four hours before removing any sugar for this purpose, he must give the officer in charge of the distillery written notice, specifying the time of the intended removal, and the quantity to be removed.

(3) At the time so specified, the distiller must convey the specified sugar immediately from the sugar store to the mash tun or other entered vessel, to be there immediately used in the manufacture of spirits.

(4) He must forthwith deposit again in the sugar store all sugar so removed and not so used.

(5) If a distiller contravenes this section he shall for each offence incur a fine of fifty pounds.

Brewing and Distilling.

24. A distiller must not mash any materials, or brew, or make wort or wash, or use a still, between eleven o'clock in the afternoon of Saturday and one o'clock in the forenoon of Monday.

If a distiller contravenes this section he shall incur a fine of fifty pounds.

25. (1) The period of brewing or making wort or wash (in this Act called the brewing period), and the period of distilling spirits (in this Act called the distilling period), must, in every distillery, be alternate and distinct.

(2) The brewing period extends from the commencement of any process of wetting, brewing, or mashing any materials until all the wort or wash in the distillery has been collected in the ferment

ing backs and wash chargers, and the declaration required by this Act or such collection has been given.

(3) The distilling period extends from the commencement of the distillation of any wash until all the wash, low wines, and feints in the distillery, or in the possession of the distiller (except the feints produced by the last re-distillation), have been distilled into spirits and conveyed into the spirits receiver, and each furnace door, or the steam pipe of each still, has been secured by the officer in charge of the distillery.

(4) Except as by this Act provided, a distiller must not use any still before the expiration of two hours after the end of the brewing period.

(5) Except as by this Act provided, a distiller must not mash any materials or brew or make any wort or wash during the distilling period.

(6) A distiller may, immediately after all the wash in his possession has been removed into a wash charger, begin to brew wort, but only on condition that all the wash so removed be forthwith distilled, and that every still be worked off and secured within the following times; (that is to say), in the case of a low wines still, within thirty-two hours from the time when the wash was removed into the wash charger, and in the case of any other still within sixteen hours from that time.

(7) If a distiller contravenes this section he shall for each offence incur a fine of five hundred pounds.

26. (1) Every distiller must, at least six days before beginning to brew wort, or, if he has discontinued brewing wort for more than one month,

before recommencing to brew wort, give the proper officer a written notice, specifying the day on which he intends so to brew or recommence brewing.

(2) If a distiller contravenes this section, or if any wort or wash is found in the distillery or possession of a distiller before the notice required by this section is given, or before the day specified in the notice given by him, or if there is found in his possession any wort or wash which he may not lawfully have in his possession, he shall for each offence incur a fine of two hundred pounds, and forfeit all wort or wash so found.

27. A distiller must, at least four hours before he mashes any materials or brews for making wort, give the officer in charge of the distillery written notice specifying the day and hour when the mashing or brewing is to be commenced.

If a distiller mashes or brews without giving such notice, he shall incur a fine of fifty pounds.

28. (1) All wort must be collected into the fermenting back within eight hours after it has begun to run into the back.

(2) Immediately after the wort is so collected the distiller must deliver to the officer in charge of the distillery a written declaration specifying—

(a) The number of the back in which the wort is contained; and

(b) The gravity or (if yeast has been added) the original gravity of the wort; and

(c) The quantity thereof as measured by the number of dry inches, that is to say, by the number of inches between the dipping place of the back and the surface of the wort contained therein.

(3) If a distiller makes default in complying with the provisions of this section, or if the declaration delivered by him contains any untrue statement, he shall for each offence incur a fine of two hundred pounds.

29. If after the declaration has been delivered the gravity of the wort shall be found to exceed the gravity therein specified or the quantity of the wort or wash shall be found to exceed by five per centum the quantity of wort therein specified, the distiller shall incur a fine of two hundred pounds.

30. If after an officer has taken an account of the gravity or quantity of the wort or wash in a fermenting back any wort or wash is found in the back which exceeds in gravity, or exceeds by five per centum in quantity, the wort or wash of which the account has been taken, the following consequences shall ensue:

(a) All wort or wash found in the back shall be considered as new, and as not included in any former charge against the distiller; and

(b) The distiller shall be charged with duty in respect of the whole thereof as not being before charged; and

(c) The wort or wash of which account had previously been taken shall be deemed to be distilled or decreased, and the distiller shall be charged for a quantity of spirits in respect thereof as for wort or wash actually distilled or decreased; and

(d) The distiller shall incur a fine of two hundred pounds.

31. A distiller must not add yeast or other matter capable of causing fermentation to wort or wash in any vessel except a fermenting back.

If a distiller contravenes this section he shall incur a fine of two hundred pounds.

32. (1) A distiller may, subject as in this section mentioned, either remove yeast from the wort or wash in a fermenting back, or leave the yeast and sediment in a back, and remove the wort or wash to an empty back.

(2) The quantity of yeast removed from or the quantity of yeast and sediment left in any one back must not exceed eight per centum of the wort or wash in the back.

(3) If yeast is removed from and yeast and sediment left in the same back, the total quantity of yeast removed and yeast and sediment left must not exceed the same proportion.

(4) Four hours before removing any wort or wash the distiller must give the officer in charge of the distillery written notice specifying the backs from which and to which the wort or wash is to be removed.

(5) No wort or wash may be removed from a back until an account thereof has been taken by the officer.

(6) In calculating duty no abatement shall be made on account of any yeast removed from or yeast and sediment left in any back.

(7) A distiller may manufacture in his distillery into a solid substance any yeast removed from, or any yeast and sediment left in a back under this section, and may send out of his distillery or add to the wort or wash in any back therein, any such yeast or sediment, whether so manufactured or not.

33. (1) A distiller must, at least four hours before beginning to make bub or any other composi-

tion for promoting the fermentation of wort or wash, give the officer in charge of the distillery written notice, specifying the time when and the vessel in which the composition is to be made, the fermenting back into which it is to be put, and the quantity to be put into such back.

(2) The quantity of the composition must not exceed five per centum of the wort or wash to which it is added.

(3) The gravity of the composition must not exceed sixty degrees, and must not be increased after the officer has taken an account thereof.

(4) The whole of the composition must be conveyed into the back specified in the notice within twenty-four hours after the time therein specified for making the composition.

(5) If a distiller contravenes any provision of this section he shall, for each offence, incur a fine of two hundred pounds.

34. (1) When fermentation has ceased in a fermenting back a distiller may, during the brewing period, on giving the notice required by this Act before the removal of wash, remove the whole of the wash from the back to the wash charger, and refill the back with fresh wort.

(2) The wash so removed must be secured in the wash charger until the commencement of the distilling period.

35. (1) When the whole of the wort or wash made in a distillery during one brewing period is collected into the fermenting backs or into the fermenting backs and wash charger, the distiller must give the officer in charge of the distillery a written declaration to that effect.

(2) If the declaration is untrue in any particular, or any still in the distillery is used before the expiration of two hours after the delivery thereof, the distiller shall incur a fine of two hundred pounds.

36. If the original gravity of any wort or wash as ascertained from any sample of wash taken from a fermenting back or wash charger exceeds by more than two degrees the gravity thereof as declared by the distiller, he shall incur a fine of two hundred pounds, and a further fine of sixpence for every gallon of wash contained in the vessel from which the sample was taken.

37. (1) The gravity of wort or wash shall be ascertained by the prescribed saccharometer, and in calculating the same a degree of gravity shall be taken as equal to one thousandth part of the gravity of distilled water at sixty degrees Fahrenheit.

(2) To ascertain the original gravity of the wort from which wash is made, a definite quantity by measure of the wash must be distilled, and the distillate and spent wash each made up with distilled water to the original measure of the wash before distillation.

(3) The specific gravity of each must then be ascertained.

(4) The number of degrees and parts of a degree by which the specific gravity of the distillate is less than the specific gravity of distilled water shall be deemed the spirit indication of the distillate.

(5) The specific gravity of the spent wash added to the degree of original gravity which in Table

A. in the Second Schedule is set opposite the degree of spirit indication shall be deemed the original gravity of the wort.

(6) All weighings and measurements for any of the above purposes must be made when the liquid is at sixty degrees Fahrenheit.

(7) The distiller or any person acting on his behalf may if the distiller so desires, be present at any such process for ascertaining original gravity.

38. (1) Four hours before any wash is removed from a fermenting back, the distiller must give the officer in charge of the distillery written notice specifying the number of the back, and the day and hour of the intended removal.

(2) At the time so specified the officer shall attend, and after he has locked the discharge cock of the wash charger, and removed the fastenings which prevent the passage of the wash from the back to the charger, but not before, the whole of the wash, or, if the charger is not capable of containing the whole, then one half at least, must be removed from the back to the charger.

(3) When the wash has been so removed and the fastenings have been secured, the officer may take an account of the quantity and the gravity of the wash.

(4) After account has been so taken of the contents of a wash charger, no wash may be removed from a back into the same charger before the whole of the contents of that charger have been removed into the still or intermediate charger.

(5) The produce of all or any of the backs filled in the same brewing period may be collected in the receivers for such produce.

(6) Subject to the provisions of this section as to feints remaining from a previous distillation, all produce so collected must, throughout the whole course of its distillation, and until the removal to the spirit store of the spirits produced therefrom, be kept unmixed with any other matter, and separate from all other produce.

(7) Any feints produced by and remaining from a previous distillation may be mixed with the low wines or feints produced by a subsequent distillation, and the process of re-distilling feints may be repeated as often as the distiller thinks fit.

(8) Not less than four hours before the removal of any low wines, feints, or spirits from a receiver, the distiller must give the officer in charge of the distillery written notice specifying the day and hour of the intended removal.

(9) At the time so specified the officer shall attend, and after he has taken an account of the contents of the receiver, and removed the fastenings of its pump or discharge cock, but not before, the whole contents of the receiver must be forthwith removed therefrom, and conveyed, if low wines or feints, into the proper charger, but if spirits, into a vat or cask in the spirit store.

(10) After the fastenings have been so removed, no other low wines, feints, or spirits may be conveyed into the receiver until the whole of its contents have been removed therefrom and the fastenings again secured.

(11) If a distiller contravenes any of the foregoing provisions of this section he shall, for each offense, incur a fine of two hundred pounds.

(12) Where a distiller has secured his low wines and feints, pumps to the satisfaction of the Com-

missioners he may run low wines and feints together into the same receiver, and may at any time without notice remove low wines and feints from a receiver to a charger and re-distil them.

(13) Where a still is connected with two spirit receivers the distiller may collect in each receiver alternately the spirits produced from any distillation or re-distillation and when he has run into either receiver as much spirits as he thinks fit, he shall give notice to the officer, who shall thereupon lock the charging cock. No spirits may be removed from any such receiver until the expiration of two hours from such notice, nor except after the notice of removal required by this section.

39. At the end of every distilling period the distiller, or the principal manager of the distillery, must sign and deliver to the proper officer a return in the prescribed form specifying, with respect to the brewing and distilling period—

(a) The quantity of each description of material used in making wort or wash during the period; and,

(b) The quantity of wort or wash decreased or distilled during the period; and

(c) The quantity of spirits computed at proof produced during the period; and,

(d) The quantity of feints remaining at the end of the period.

If default is made in making the return required by this section or if the return is untrue in any particular, the distiller shall incur a fine of two hundred pounds.

40. (1) For the purpose of testing the quantity of spirits at proof in any wash by distillation, the

proper officer may require any charger or receiver in a distillery to be emptied and cleaned, and any quantity of the wash to be distilled, and the produce to be conveyed into the charger or receiver. For this purpose all persons in the employ of the distiller must, on request and on reasonable notice, provide the officer with assistance and fuel.

(2) All low wines, feints, and spirits so distilled and conveyed into a charger or receiver must be kept therein unmixed with any other thing until the officer has taken an account of the quantity and strength thereof.

(3) If a distiller contravenes any of the foregoing provisions of this section, he shall incur a fine of two hundred pounds.

(4) If the quantity of proof spirits produced from the wash exceeds the proportion of one gallon and a quarter for every hundred gallons of wash in respect of every five degrees of attenuation, that is to say, in respect of every five degrees of difference between the highest gravity of the wort from which the wash was produced as declared by the distiller or as found by the officer, and the lowest gravity of the wash as taken by the officer, the distiller shall incur a fine of two hundred pounds, and, in addition, of sixpence for every gallon of wash from which the wash so distilled was taken.

41. (1) There must not be mixed with or added to any low wines, feints, or spirits in a distillery any substance which either increases the gravity thereof, or prevents the true strength thereof from being ascertained by Sykes's hydrometer.

(2) If this section is contravened, the distiller shall, for each offense, incur a fine of two hundred

pounds, and all low wines, feints, spirits, and mixtures with respect to which the offence is committed shall be forfeited.

Samples.

42. (1) An officer may take a sample of any wort, wash, low wines, feints, or spirits from any vessel or utensil in a distillery, and the gravity or strength of any sample so taken shall be deemed the gravity or strength of the whole contents of the vessel or utensil from which it is taken.

(2) A distiller may, if he wishes, before any such sample is taken, stir up and mix together all the liquor contained in the vessel or utensil from which the sample is to be taken.

Spirits in Store.

43. (1) No spirits may be brought into a distiller's spirit store unless they have been distilled in his distillery and conveyed directly from the spirit receiver into the store.

(2) No spirits which have been removed from the store may be brought back into the store.

(3) The officer in charge of the store must, when required, attend at the store between five o'clock in the forenoon and eight o'clock in the afternoon on every day, except Sunday.

(4) All spirits in the store must be filled into casks, in the presence of the officer, in the prescribed manner.

(5) Spirits may not be removed from the store at any less strength than twenty per centum below proof, nor at any strength above twenty-five and under forty-three per centum over proof.

(6) Spirits may not be removed from the store in any quantity less than nine gallons.

(7) The casks in which spirits are removed may be either full, or, subject to the prescribed regulations, on ullage.

(8) All the spirits distilled in one distilling period (except a quantity not exceeding one hundred and fifty gallons, and in one ullage cask) must be removed from the store within ten days from the termination of that period, and before any spirits distilled in a succeeding period are brought into the store.

(9) When all the spirits distilled in one distilling period have been removed from the spirit store, or at the end of ten days from the termination of that period, whichever first happens, the proper officer shall strike a balance in the account kept by him for the distillery.

(10) If any spirits are brought into or found in or removed from a distiller's spirit store in contravention of this section the distiller shall, for each offence, incur a fine of two hundred pounds, and the spirits in respect of which the offence is committed shall be forfeited.

(11) If any spirits are found in a distiller's spirit store after the time at which they are required by this section to be removed therefrom, the distiller shall incur a fine of twenty shillings for every gallon of spirits so found.

(12) Every distiller must, to the satisfaction of the Commissioners, provide accommodation at his spirit store for the officer in charge thereof, and, in default of doing so, shall incur a fine of fifty pounds.

44. (1) The proper officer shall from time to time take an account in the prescribed manner of the quantity of spirits in a distiller's spirit store.

(2) If the quantity of spirits computed at proof found in the store is greater or less than the quantity which, according to the account so taken, ought to be therein, the distiller shall incur a fine of twenty shillings for every gallon of spirits so in excess or deficient, and the spirits (if any) in excess shall be forfeited.

(3) But a distiller shall not be liable to any penalty under this section if the excess does not exceed one half per centum, or the deficiency three per centum on the balance struck when the account was last taken, together with the quantity since brought in from the spirit receiver, nor if he satisfies the Commissioners that the deficiency does not result from fraud.

(4) Where there is an excess, and the distiller is not prosecuted in respect thereof, he shall pay duty on the excess.

45. Subject to the prescribed regulations and the prescribed security, spirits may be removed from a distiller's spirit store for exportation or for ship's stores without payment of duty.

Charging and Payment of Duty.

46. (1) The duty on spirits made in a distillery is to be charged in respect of the wort or wash, the low wines, and the feints and spirits made in the distillery, and shall be payable according to such of those modes of charge as produces the greatest amount of duty.

(2) In respect of every one hundred gallons of wort or wash the duty is to be charged for a quantity of spirits at the rate of one gallon of spirits at proof for every five degrees of attenuation, that is to say, for every five degrees of difference between the highest gravity of the wort as declared by the distiller or found by the officer (whichever is the greater) without any allowance for waste bub, dregs, yeast, or other matter, and the lowest gravity of the wash as found by the officer before distillation.

(3) In respect of low wines the duty is to be charged on the quantity of spirits at proof contained therein, less five per centum.

(4) In respect of feints and spirits the duty is to be charged on the quantity of spirits at proof after deducting the feints (if any) remaining from a previous distillation and included in the account of feints and spirits last produced.

(5) In calculating the duty payable on spirits an allowance shall be made for any deficiency occasioned by natural waste, subject to the following provisions—

(a) The allowance shall not exceed one and a half per centum on the spirits removed from the receiver to the store.

(b) If the deficiency exceeds three per centum on the spirits so removed no allowance whatever shall be made.

47. (1) The proper officer shall from time to time make out in the prescribed manner and for the prescribed period a return of the quantity of spirits for which a distiller is chargeable, and of the duty payable thereon, and shall, if required in writing by the distiller, deliver to him, or leave at

his distillery, a copy of this return signed by the officer.

(2) If a distiller does not, within the prescribed time and in the prescribed manner, pay the duty with which he is charged in the return, he shall incur a fine of twenty pounds, and forfeit double the duty payable by him.

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Warehousing.

49. (1) A distiller may provide a warehouse on his premises for warehousing spirits distilled on the same premises without payment of duty.

(2) Every such warehouse must be approved by the Commissioners and entered by the distiller.

50. (1) The Commissioners may approve Excise warehouses for warehousing spirits without payment of duty. Such warehouses shall be for the general accommodation of persons desiring to warehouse spirits.

(2) The proprietor or occupier of an Excise warehouse must given the prescribed security.

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54. The Commissioners may, if they think fit, themselves provide Excise warehouses, and may charge for spirits warehoused therein warehouse rent at the prescribed rate, not exceeding one penny per week for forty gallons. This rent must be paid by the proprietor of the spirits to the collector, and shall be a lien on all spirits warehoused in the same warehouse belonging to such proprietor.

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56. (1) A distiller may, subject and according to the provisions of this Act and to the prescribed regulations, and the prescribed security, warehouse, without payment of duty, in the distiller's warehouse any spirits distilled on his premises.

(2) The spirits may be warehoused in casks or in vats.

(3) The spirits must not be of any strength other than that allowed on removal from the spirit store.

57. Where a distiller has given the prescribed security under which he may remove spirits from one warehouse to another, he may, subject to the provisions of this Act and to the prescribed regulations, remove any spirits directly from his store to an Excise or Customs warehouse, and all spirits so removed shall be deemed to have been first warehoused in the distiller's warehouse and removed therefrom under the provisions of this Act.

* * * * *

59. The proprietor of any plain spirits re-imported into the United Kingdom may, on the issue by the Commissioners of Customs of a bill of store for the spirits, and on the repayment of the allowance granted on the exportation thereof, warehouse the spirits in an Excise or Customs warehouse.

* * * * *

62. Spirits in a distiller's warehouse may, on the prescribed security being given by the distiller, be transferred to a purchaser, but no further transfer may be made of them whilst remaining in the same warehouse.

63. British spirits warehoused in an Excise warehouse in the name of a distiller or dealer may be transferred into the name of a purchaser on his producing to the officer in charge of the warehouse a written order for the delivery thereof, signed by the proprietor of the spirits, and countersigned by the proprietor or occupier of the warehouse or his servant acting for him at the warehouse. Spirits so transferred shall be discharged from all claim in respect of duties, penalties, or forfeitures to which the transferor is liable, but may not be delivered out of the warehouse for home consumption until payment of the duties chargeable thereon.

64. (1) The proprietor of spirits warehoused in a distiller's or Excise warehouse may, in accordance with the prescribed regulations, vat, blend, or rack them in the warehouse, either on payment of duty or otherwise.

(2) Every cask containing racked or blended spirits must be marked in the prescribed manner.

(3) If the proprietor of any racked or blended spirits in a warehouse fails to have the casks containing the spirits marked as by this section required, and to keep them so marked, he shall incur a fine of fifty pounds.

* * * * *

67. (1) A distiller may, in an Excise warehouse specially approved for the purpose, and in accordance with the prescribed regulations, reduce with water any plain spirits of a strength not less than forty-three per centum over proof to any strength at which spirits may be removed from a distiller's spirit store.

(2) The water used for this purpose must be supplied only through a service pipe and meter constructed, laid down, and fixed to the satisfaction of the Commissioners.

(3) An allowance not exceeding one per centum shall be made on any deficiency occurring during the reduction.

68. (1) The proprietor of spirits warehoused in an Excise warehouse may bottle the spirits on giving the officer in charge of the warehouse twenty-four hours previous notice of his intention to do so.

(2) He must provide and give the prescribed security, and the place in which the spirits are to be bottled must be approved by the Commissioners, must be adjacent to the warehouse, and must not be situate in the same court or yard, or have any communication with the premises of a rectifier, dealer, or retailer.

(3) If the spirits are for home consumption they must be drawn off into imperial or reputed quart or pint bottles, and packed in cases containing one dozen quart bottles or two dozen pint bottles each, or any number of dozens.

(4) Each case must be fastened, secured, and marked in the prescribed manner in the bottling place.

(5) Subject as aforesaid, spirits must be bottled, packed, and removed in accordance with the prescribed regulations.

(6) If at any time there is found in the quantity of spirits belonging to the proprietor a deficiency since the last account was taken exceeding by two per centum in the quantity removed by him

into the bottling place, he shall be charged with duty on such deficiency.

(7) Spirits so bottled may not be removed for home consumption,—

(a) by a distiller, unless he is also licensed as a dealer, in a quantity less than five dozen imperial or reputed quart bottles, or ten dozen imperial or reputed pint bottles;

(b) by any person in a quantity less than one dozen imperial or reputed quart bottles, or two dozen imperial or reputed pint bottles.

69. A distiller or rectifier may, in accordance with the prescribed regulations, and on giving to the proper officer, or the authorized officer of Customs, one day's notice, add any sweetening or coloring matter, or any other ingredient, to any spirits warehoused by him in an Excise or Customs warehouse.

70. Any spirits warehoused in an Excise or Customs warehouse, except British compounds, may be used in the warehouse for fortifying wines, or for any other purpose for which foreign spirits may be used under the Acts relating to the Customs.

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72. Subject to the provisions of this Act, spirits warehoused may, in accordance with the prescribed regulations, and on the prescribed security being given, and at the risk of the proprietor thereof, be removed to any other warehouse except a distiller's warehouse.

73. Where spirits are to be warehoused in an Excise warehouse upon removal from another ware-

house, the proprietor of the spirits may, on their arrival at, but before their actual deposit in, the warehouse, make an entry thereof, or of some portion thereof not being less than one cask, for removal for home consumption, or to another warehouse, or for exportation, or ship's stores, and thereupon the spirits of which entry is so made shall be considered as if they had been actually deposited, and may be delivered and removed accordingly.

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75.(1.) Spirits may be delivered from a warehouse for home consumption after the full duty chargeable thereon has been paid.

(2.) The officer at the warehouse shall, on production to him of the receipt for the duty, allow the spirits to be removed.

(3.) The spirits must be conveyed to the place of destination and delivered there, without alteration or change, in the same casks or packages in which they left the warehouse.

* * * * *

79. Where British spirits are delivered from a Customs warehouse for home consumption and in all cases where duty is payable on such spirits in such warehouse, the duty payable shall be collected according to the laws and regulations for like spirits in an Excise warehouse by the officers of Customs under the direction of the Commissioners of Customs and paid into the Bank of England to the account of the Receiver General of Inland Revenue and dealt with as other duties of Excise.

80. Where foreign spirits are delivered from an Excise warehouse for home consumption, the duty payable thereon shall be collected by an officer under the direction of the Commissioners according to the laws and regulations for like spirits in a Customs warehouse, and paid into the Bank of England to the account of the Commissioners of Customs and dealt with as other duties of Customs.

81. (1) The proprietor of spirits in a distiller's or Excise warehouse may, on giving notice and the prescribed bond, remove the spirits for exportation without payment of duty.

(2) The notice must be delivered to the officer in charge of the warehouse not less than twenty-four hours before the time when the proprietor intends to ship the spirits, and must specify the mark, number, and capacity of each cask or package intended to be shipped, the number of gallons and strength of the spirits contained in each such cask or package, the time and place of the intended shipment, and the name or description and destination of the ship.

(3) The officer may place any prescribed mark on each cask or package intended for exportation.

(4) The bond given by the proprietor must, subject to the prescribed regulations, be conditioned that the spirits specified in the notice given from time to time shall be conveyed to the quay where the ship is lying, shall be put on board the ship, and shall (the danger of the seas or enemies excepted) be exported to and landed at the port specified in the notice, without alteration or change, and shall not be landed at any other place.

(5) The spirits must be sent to the quay where

the ship is lying, and delivered with the permit to the custody of the authorized officer of Customs there, and must remain in his custody until shipped.

(6) On shipment the officer of Customs shall certify on the back of the permit the date of the shipment, the name of the ship, and the quantity of spirits, computed at proof, shipped, and shall send the permit to the collector of the collection from which the spirits were sent.

82. Spirits warehoused may, on the prescribed bond being given, subject to the prescribed regulations and subject to the conditions, regulations, and restrictions required by any Act in force for the time being, be delivered out without payment of duty for ship's stores.

83. Spirits warehoused may, on the prescribed bond being given, subject to the prescribed regulations, be delivered out, without payment of duty, for methylation.

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Rectifiers.

86. The rules contained in the fourth, sixth, seventh, eighth, ninth and tenth part of the First Schedule, with the corresponding penalties, and the provisions of this Act with respect to the following matters:

- (a) Alterations of vessels, utensils and pipes;
- (b) Powers of Commissioners to allow use of additional or substituted utensils and fittings;
- (c) Penalty for interference with and attempt to defeat gauging;

(d) Penalties for frauds and offences in relation to vessels and utensils;

(e) Making entry;

(f) Unlawful hours for distilling;

shall apply to every rectifier as if he were a distiller.

Entry must be made by a rectifier before he begins to receive, rectify, or compound any spirits.

87. (1) No person may make entry of or use for rectifying or compounding spirits, or for receiving or keeping spirits as a rectifier, any premises within a quarter of a mile of any premises entered or used for brewing or making wort or wash, or for distilling spirits, or for receiving or keeping spirits by a distiller.

(2) If any person contravenes this section he shall incur a fine of five hundred pounds for every week during which the premises are so entered or used.

88. (1) A rectifier keeping a still may not carry on upon his premises the business of a brewer of beer or a maker of sweets, vinegar, cider, or perry, or a refiner of sugar, or a dealer in or retailer of wine.

(2) No person may carry on the business of a rectifier keeping a still upon premises communicating otherwise than by an open public street or carriage road with any premises used by a brewer of beer or a maker of sweets, vinegar, cider, or perry, or a refiner of sugar, or a dealer in or retailer of spirits or a dealer in or retailer of wine.

(3) If any person contravenes any of the foregoing provisions of this section he shall incur a fine of two hundred pounds.

(4) The Commissioners may refuse to grant a licence for rectifying or compounding spirits on any premises in which from their situation with respect to a distillery they think it inexpedient to allow such business to be carried on.

89. (1) A rectifier keeping a still must not have in his possession any wort, wash, fermented liquor, or materials capable of being distilled into low wines or spirits.

(2) No rectifier whatever may—

(a) Distil or extract low wines or spirits from any material except spirits; or

(b) Have in his possession any spirits for which he has not received and delivered to the proper officer a permit or certificate; or

(c) Have in his possession any foreign spirits, except for the purpose of being rectified or compounded by him as spirits of wine or as British compounds.

(3) If a rectifier contravenes this section, he shall for each offence, in addition to any other penalty, incur a fine of five hundred pounds, or, at the election of the Commissioners, of twenty shillings for every gallon of wort, wash, fermented liquor, or other materials or of the low wines or spirits in respect of which the offence is committed.

(4) If a rectifier is convicted more than once of an offence against this section, his licence shall become void, and he shall, during three years from the date of the conviction, be incapable of holding a licence as a rectifier.

90. (1) A rectifier must, on receipt of any spirits, give notice thereof to the proper officer, and

deliver to him the permit or certificate received with the spirits.

(2) Unless the officer neglects to attend within one hour after receiving the notice, the rectifier must not, until the officer has taken account of the spirits so received, break bulk or draw off any part of the spirits or add water or anything thereto, or in any respect alter the same, or tap, open, alter, or change any cask or package containing any such spirits.

(3) If a rectifier contravenes this section he shall incur a fine of two hundred pounds and forfeit the spirits in respect of which the offence is committed.

91. (1) With respect to the business of a rectifier the rules in the Third Schedule must be observed.

(2) For any contravention of the rules in the first part of the Third Schedule the rectifier shall incur a fine of two hundred pounds.

(3) For any contravention of the rules in the second part of the Third Schedule the rectifier shall incur a fine of one hundred pounds.

(4) For any contravention of the rule in the fourth part of the Third Schedule the rectifier shall incur a fine of fifty pounds, and the spirits in respect of which the offence is committed shall be forfeited.

92. An officer may take a sample of the contents of a still of a rectifier at any time before it has begun to work, or after it has ceased working, and if there is found in the still any wine or wash put into or mixed with low wines, feints, or spirits,

the rectifier shall, in addition to any other penalty, incur a fine of five hundred pounds.

93. (1) A rectifier must not send out any spirits except British compounds or spirits of wine, and must not send out any British compounds or spirits of wine in less quantity than two gallons.

(2) If a rectifier contravenes this section, he shall, for each offence, incur a fine of fifty pounds; and all spirits sent out in contravention of this section, together with all horses, cattle, carriages, and boats made use of in conveying the same, shall be forfeited.

94. (1) An officer shall from time to time take an account in the prescribed manner of the quantity and strength of the spirits in the stock of a rectifier, making allowance for the spirits for which certificates have been granted since the last account.

(2) If a still is at work when the account is taken, all spirits produced from the charge of the still must be kept apart from the remainder of the stock until the account has been completed.

(3) If, on balancing the stock, any excess appears, a quantity of spirits, computed at proof, equal thereto shall be forfeited, and the rectifier shall incur a fine of twenty shillings for every gallon of such excess.

(4) If, on balancing the stock, there is any deficiency not duly accounted for by spirits sent out with certificate, and exceeding five per centum on the balance struck when the account was last taken, together with the quantity since lawfully received, the rectifier shall incur a fine of twenty shillings for every gallon of such deficiency.

95. (1) A rectifier may, subject to the provisions of this Act, and the prescribed regulations, warehouse in an Excise or Customs warehouse, for exportation or for ship's stores, or for home consumption. British compounds rectified or compounded by him from spirits on which duty has been paid, and not being British liqueurs or tinctures or medicinal spirits.

(2) He may so warehouse for exportation or for ship's stores, but not for home consumption, British liqueurs, tinctures, or medicinal spirits compounded by him from spirits on which duty has been paid.

(3) He may so warehouse, either for exportation or for ship's stores, but not for home consumption, spirits of wine rectified by him from spirits on which duty has been paid.

(4) British compounds warehoused for home consumption must be of a strength not exceeding eleven degrees over proof.

(5) British compounds and spirits of wine must be warehoused in casks either full or on ullage of one gallon or two gallons. All casks warehoused in any one year from the same premises must be numbered consecutively. The capacity of each cask must be not less than nine gallons, and there must be legibly cut, branded, or painted with oil colours on each end thereof—

(a) The name and place of business of the rectifier:

(b) The number of the cask and the year in which it is warehoused:

(c) The capacity of the cask in gallons, and, if the capacity is less than eighty gallons, the quarter or quarters of a gallon of capacity above the number of entire gallons:

(d) The number of gallons, strength, and denomination of the spirits contained in the casks.

(6) The rectifier must, before warehousing spirits, deliver to the officer in charge of the warehouse or the authorised officer of Customs a warehousing entry specifying—

(a) The particulars of the spirits, as set forth in the certificate:

(b) The name of the rectifier:

(c) The place whence the spirits are sent:

(d) In the case of British liqueurs, or tinctures, or medicinal spirits, the number of gallons at proof of the spirits from which the contents of each cask were compounded.

(7) The strength of all spirits warehoused on drawback (except British liqueurs, or tinctures, or medicinal spirits) shall be deemed to be that ascertained by Sykes's hydrometer.

(8) Where a cask contains British liqueurs, or tinctures, or medicinal spirits, the officer shall take a sample from the cask; and the sample shall be examined, under the direction of the Commissioners, or the Commissioners of Customs, by distillation or otherwise, and the strength as ascertained by the examination, less five degrees, shall, for the purposes of this Act, be deemed the true strength of the contents.

(9) When the officer has examined the spirits, he shall deliver to the rectifier a receipt specifying—

(a) The marks, numbers, and capacity of each cask warehoused; and

(b) The number of gallons computed at proof, description, and strength of the spirits in each cask; and

(c) The total number of gallons computed at proof received with the certificate.

(10) The officer shall forthwith send to the collector of the collection in which the rectifier's premises are situate a certificate setting forth the name of the rectifier, the situation of his premises, and the other particulars required to be inserted in the receipt.

(11) The collector shall, on receiving three days' written notice of the time when payment is required, and on production of the receipt, pay to the rectifier, or to any person authorised by him, a drawback of the duties on the spirits warehoused.

(12) Spirits warehoused for home consumption under this section may be delivered out for home consumption under the same rules and regulations and on payment of the same duty as spirits were housed by a distiller.

(13) Spirits warehoused for exportation or ship's stores under this section must not be delivered out otherwise than directly from the warehouse to the ship in which they are to be exported or used as stores.

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PART II.

METHYLATED SPIRITS.

116. Part I of this Act shall not apply to methylated spirits.

117. (1.) Methylated spirits shall, subject to the provisions of this Act, be exempt from duty.

(2). If a rectifier methylates duty-paid spirits he shall be allowed a drawback at the rate of the duty chargeable on British spirits of the like strength.

* * * * *

123. (5) Foreign spirits may not be used for methylation until the difference between the duty of Customs chargeable thereon and the duty of Excise chargeable on British spirits has been paid.

* * * * *

Forms and Schedules.

159. The Commissioners and the Commissioners of Customs respectively shall prescribe such regulations as they may from time to time think necessary for carrying into execution the provisions of this Act.

* * * * *

Exhibit 1(d).

44TH AND 45TH VICT., CHAPTER 12, 1881.

* * * * *

SEC. 16. The allowance of 3d. per gallon, payable to any licensed rectifier or compounder under Section 4 of the Act of 23d and 24th years of Her Majesty's reign, Chapter 129, or Section 12 of the Act of the 28th and 29th years of Her Majesty's reign, Chapter 98, shall be increased to 4d. per gallon.

SEC. 17. (1) Foreign wine warehoused in a customs warehouse of which an account has been taken by the proper officer of customs may upon such security being given and subject to such regulations

being observed as the commissioners of customs or the commissioner of Inland Revenue respectively shall from time to time prescribe, be removed without payment of duty to an excise warehouse and from thence to any other excise warehouse or customs warehouse or for exportation or ship's stores.

(2) Foreign wine warehoused in an excise warehouse may upon payment of the proper duties of customs be delivered for home consumption. (3) The enactments contained in the spirits Act, 1880, in relation to the proprietor or occupier of an excise warehouse and to the proprietor of spirits warehoused and to the warehousing and treatment of spirits in an excise warehouse, and the delivery of the same thereout and the collecting and accounting for the duty thereon shall have effect in relation to foreign wine warehoused in the same manner and to the same extent as if the term foreign wine was included in the term spirits wherever used in those enactments.

Exhibit 1(e).

Customs and Inland Revenue Act, 1885.

CHAPTER 51.

An Act to grant certain Duties of Customs and Inland Revenue, and to amend the laws relating to Customs and Inland Revenue.

6TH AUGUST, 1885.

1. This Act may be cited as the Customs and Inland Revenue Act, 1885.

* * * * *

AS TO EXCISE.

3. (1) Where any spirits distilled and rectified in the United Kingdom are exported from an Excise or Customs warehouse, or are used in any such warehouse for fortifying wines, or for any other purpose to which foreign spirits may be applied, there shall be paid in respect of every gallon of such spirits, computed at hydrometer proof, the following allowances: that is to say—

In respect of plain British spirits, and spirits of the nature of spirits of wine, an allowance of twopence, and

In respect of British compounded spirits, an allowance of fourpence.

(2) The allowance shall be paid, in the case of spirits exported, to the person who shall have given security for the exportation, and in the case of spirits used in warehouse, to the person upon whose written request the spirits shall have been so used.

(3) The allowances shall not be paid until a certificate from the proper officer of Inland Revenue or Customs shall be produced to the officer of Inland Revenue appointed to pay the same, that such spirits have been actually exported or used as aforesaid.

* * * * *

10. The enactments described in the schedule to this Act shall be and are hereby repealed to the extent in the said schedule mentioned. * * * *

* * * * *

The Schedule
Enactments repealed.

Sessions and Chapter * * *	Title * * *	Extent of Repeal * * *
23 & 24 Vict. c. 129. * * *	An Act to grant excise duties on British spirits and on spirits imported from the Channel Islands.	Section four. * * *
27 & 28 Vict. c. 12.	An Act to amend the laws relating to the warehousing of British spirits.	Section twelve.

Exhibit 1(f).

Revenue Act, 1889.

(52 & 53 VICT., CAP. 42).

CHAPTER 42.

AN ACT to amend the Law relating to the Customs and Inland Revenue, and for other purposes connected with the Public Revenue and Expenditure. (26th August, 1889).

* * * * *

PART IV.

EXCISE.

21. Notwithstanding anything to the contrary in section three of the Customs and Inland Revenue Act, 1885, the allowances payable under that section may, in the case of British compounded spirits of a strength exceeding eleven degrees over proof, and spirits of the nature of spirits of wine, be paid, on the production of a certificate from the proper

officer of inland revenue or customs that the same have been deposited in an excise or customs warehouse, to the person in whose name they are warehoused; and any payment heretofore made on the deposit of such spirits shall be deemed to have been legally made in discharge of all claims to any allowance payable in respect thereof.

Exhibit 1(g).

Finance Act, 1895.

(58 and 59 VICT. CAP. 16.)

An Act to grant certain Duties of Customs and Inland Revenue, to repeal and alter other Duties, and to amend the Law relating to Customs and Inland Revenue and to make Provision for the Financial Arrangements of the Year (30th May, 1895).

PART I.

Customs and Excise.

* * * * *

6. Regulations of the Commissioners of Inland Revenue, under section one hundred and fifty-nine of the Spirits Act, 1880, may regulate the removal for exportation of methylated spirits, and where spirits used for methylation are removed from a place of metiylation and exported in accordance with those regulations, there shall be paid to the exporter an allowance of twopence for every gallon of such spirits, computed at hydro-

meter proof, and subsection three of section three of the Customs and Inland Revenue Act of 1885 shall apply, as if the spirits were exported and the allowance made in pursuance of that section.

7. After the thirty-first day of December one thousand eight hundred and ninety-five, section one hundred and nineteen of the Customs Consolidation Act, 1876 (which limits the time for the payment of a drawback on the exportation of goods), shall extend to the payment of any allowance in respect of spirits exported, used, or deposited, which is payable under section three of the Customs and Inland Revenue Act, 1885, as amended by section twenty-one of the Revenue Act, 1889, and to an allowance in respect of methylated spirits exported which is payable under this Act, and to the payment of any drawback of excise which is allowed on the exportation of any goods, in like manner as if it were in terms made applicable thereto, and the date of user or deposit were the date of shipment.

8. Spirits to which any sweetening or coloring matter or any other ingredient has been added in warehouse, and spirits warehoused by a rectifier of spirits for exportation or ship's stores, and British liqueurs, may, if bottled and packed in cases when delivered from a warehouse, be removed, notwithstanding anything in sections seventy-four and ninety-five of the Spirits Act, 1880, to another warehouse for exportation or ship's stores.

Exhibit 1 (h).**Finance Act, 1902.**

(2 EDW. 7, CAP. 7.)

AN ACT to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue and the National Debt, and to make other provision for the financial arrangements of the year. (22nd July 1902.)

PART I.**CUSTOMS AND EXCISE.**

1. There shall, as from the fifteenth day of April, nineteen hundred and two, be charged, levied and paid, on the grain and other articles mentioned in the First Schedule of this Act, imported into Great Britain and Ireland, the duties mentioned in that schedule, and there shall, as and from the seventh of May, nineteen hundred and two, be allowed in respect of those articles the drawbacks set out in the Second Schedule of this Act.

2. The duty of customs now payable on tea shall continue to be charged, levied, and paid until the first day of August, nineteen hundred and three, on the importation thereof into Great Britain or Ireland; that is to say—

Tea, the pound, sixpence.

3. The additional duties of customs on tobacco, beer, and spirits imposed by sections two, three, four, and five of the Finance Act, 1900 (including the increased duties imposed by section five of that Act), shall continue to be charged, levied, and paid until the first day of August, nineteen hundred and three, and as regards the period for which any additional drawbacks are allowed under those sections nineteen hundred and three shall be substituted for nineteen hundred and one.

* * * * *

5. (1) As from the seventeenth day of June nineteen hundred and two, the Customs duty of ten shillings and fourpence on imported spirits, imposed by section seven of the Customs and Inland Revenue Act, 1881, shall as respects spirits other than rum and brandy, be ten shillings and fivepence, and the allowances of two pence and fourpence payable in respect of spirits under section three of the Customs and Inland Revenue Act, 1885, and section six of the Finance Act, 1895, shall be respectively threepence and fivepence

(2) For the purpose of section three of the Customs and Inland Revenue Act, 1885, spirits shall be deemed to be British plain spirits, or spirits in the nature of spirits of wine, and not to be British compounded spirits, unless they are proved to the satisfaction of the Commissioners of Inland Revenue to have been distinctly altered in character by re-distillation with or without the addition of flavouring matter.

* * * * *

8. (1) Where, in the case of any art or manufacture carried on by any person in which the use

of spirits is required, it shall be proved to the satisfaction of the Commissioners of Inland Revenue that the use of methylated spirits is unsuitable or detrimental, they may, if they think fit, authorize that person to receive spirits without payment of duty for use in the art or manufacture upon giving security to their satisfaction that he will use the spirits in the art or manufacture, and for no other purpose, and the spirits so used shall be exempt from duty:

Provided that foreign spirits may not be so received or used until the difference between the duty of customs chargeable thereon and the duty of excise chargeable on British spirits has been paid.

(2) The authority shall only be granted subject to a compliance with such regulations as the Commissioners may require the applicant to observe for the security of the revenue, and upon condition that he will, to the satisfaction of the Commissioners if so required by them, render the spirits unpotable before and during use, and will from time to time pay any expenses that may be incurred in placing an officer in charge of his premises.

(3) If any person so authorized shall not comply with any regulation which he is required to observe, he shall, in addition to any other fine or liability, incur a fine of fifty pounds.

• • • • •

Second Schedule.

Drawbacks.

Drawbacks to be allowed on articles exported or deposited in any bonded warehouse for use as ships' stores, or removed to the Isle of Man, if it is proved to the satisfaction of the Commissioners of Customs that the duties on importation have been duly paid.

On any of the articles mentioned in the First Schedule which have undergone a process of manufacture or preparation in Great Britain or Ireland, a drawback equal to the duty paid on the article.

On goods in the manufacture or preparation of which in Great Britain or Ireland any of the articles mentioned in the First Schedule has been used, a drawback equal to the duty paid in respect of the quantity of that article which appears to the satisfaction of the Treasury to have been so used.

In allowing any drawback mentioned in this Schedule, the Commissioners of Customs may, with the assent of the Treasury in order to facilitate trade, relax, in the case of any goods, any requirements of sections one hundred and four and one hundred and six of the Customs Consolidated Act, 1876, as to the giving of security and the examination of goods.

Exhibit 1(1).**Revenue Act, 1906.**

(6 EDW. 7, CH. 20.)

CHAPTER 20.

AN ACT to amend the Law relating to Customs and Inland Revenue, and for other purposes connected with Finance (4th August, 1906).

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.**SPIRITS.**

1. (1) Where any spirits are used by an authorized methylator for making industrial methylated spirits, or are received by any person for use in any art or manufacture under section eight of the Finance Act, 1902, the like allowance shall be paid to the authorized methylator or to the person by whom the spirits are received, as the case may be, in respect of those spirits as is payable on the exportation of plain British spirits, and the Commissioners may by regulations prescribe the time and manner of the payment of the allowance and the proof to be given that the spirits have been or are to be used as aforesaid.

(2) No allowance shall be payable under this section on methylic alcohol, but foreign methylic alcohol may be received and used under section eight of the Finance Act, 1902, without payment of the difference of duty mentioned in that section.

2. (1) Section one hundred and twenty-one of the Spirits Act, 1880 (which forbids the supply of methylated spirits except to the persons mentioned in the section), shall be construed as if, as regards the supply of industrial methylated spirits, a retailer of methylated spirits was not a person excepted under that section.

(2) A retailer of methylated spirits shall not receive or have in his possession any methylated spirits except such as may be authorised by regulations, and if any such retailer contravenes this provision, he shall, for each offence, incur a fine of fifty pounds, and the spirits in respect of which the offence is committed shall be forfeited.

(3) Every vessel in which an authorised methylator stores, keeps, or supplies industrial methylated spirits, or mineralized methylated spirits, must be labeled in such a manner as to show that the methylated spirits are industrial or mineralized as the case may be, and if an authorised methylator fails to comply with this provision, he shall, for each offence, incur a fine of fifty pounds, and the spirits with respect to which the offence is committed shall be forfeited.

(4) In addition to the account required to be kept by the proper officer under subsection (1) of section one hundred and twenty-five of the Spirits Act, 1880, an authorised methylator shall keep distinct accounts in the prescribed forms of any industrial methylated spirits and of any

mineralized methylated spirits prepared or received by him and of the sale, use, and delivery thereof, and that section shall apply with reference to each of those accounts and the spirits to which the account relates as it applies with reference to the stock account therein mentioned and to methylated spirits generally.

(5) Section one hundred and thirty of the Spirits Act, 1880, shall apply as if it were an offence under that section without the consent in writing of the Commissioners, or otherwise than in accordance with regulations, to purify or attempt to purify methylated spirits or methylic alcohol, or, after methylated spirits or methylic alcohol have once been used, to recover or attempt to recover the spirit or alcohol by distillation or condensation, or in any other manner.

(6) Subsection (2) of section one hundred and thirty of the Spirits Act, 1880, shall apply as respects any article specified in an order of the Commissioners as it applies with respect to sulphuric ether or chloroform.

3. (1) The Commissioners may permit the exportation on drawback of tinctures or of spirits of wine, subject to regulations, direct from the premises of a person licensed to rectify or compound spirits, and the like drawbacks and allowances shall be payable in respect of tinctures or spirits of wine so exported as would be payable if the tinctures or spirits of wine were exported from an excise or customs warehouse.

(2) In ascertaining the amount of drawback on any tinctures so exported, the Commissioners may make such addition as they think just in respect of waste.

(3) If any person fails to comply with any regulation made under this section, he shall, in addition to any other liability, incur in respect of each offence a fine of fifty pounds and the article in respect of which the offence is committed shall be forfeited.

(4) This section shall apply as respects the shipment of tinctures as stores as it applies with respect to the exportation of tinctures.

4. (1) In this Part of this Act—

The expression “industrial methylated spirits” means any methylated spirits (other than mineralized methylated spirits) which are intended for use in any art or manufacture within the United Kingdom; and

The expression “mineralized methylated spirits” means methylated spirits which, in addition to being methylated as provided by subsection (3) of section one hundred and twenty-three of the Spirits Act of 1880, as amended by this or any other Act, have mixed with or dissolved in them such quantity of such kind of mineral naphtha as may for the time being be prescribed by regulations of the Commissioners; and

The expression “tinctures” includes medicinal spirits, flavouring essences, perfumed spirits, and any other articles containing spirits and specified in regulations of the Commissioners; and

The expression “regulations” means regulations made under section one hundred and fifty-nine of the Spirits Act, 1880.

(2) This part of this Act shall be construed with the Spirits Act, 1880.

PART II.
CUSTOMS AND EXCISE.

5. Section two hundred and thirty-three of the Customs Consolidation Act, 1876 (which relates to the power of justices to proceed summarily in the case of certain offences against the Customs Acts and the limitations on that power), shall, as amended or affected by any other Act, apply to saccharin as it applies to spirits, with the substitution of pounds weight for gallons.

* * * * *

8. The word "by" shall be substituted for the word "without" in subsection (2) of section five of the Finance Act, 1902 (which relates to the allowance on spirits).

Exhibit 2.

Ham's Year Book, 1914.

Excerpt from page 61, part 1.

ALLOWANCES.

The expression has more than one signification in relation to Excise matters. A. may be divided into two classes:—

1. **ALLOWANCES ON EXPORTATION**, to compensate the home trader for the cost of Excise restrictions on the manufacture. *See also* Drawback and Allowances.

Payable only within 2 years of shipment to the day.

Receipts for any allowance on goods not actually exported must be stamped in every case of £2 or upwards.

Debenture or certificate for allowance is exempt from stamp duty. Finance Act, 1907.

(a) *Industrial Meth. Spirit.*

—On dutiable spirit
used when making;
paid to methylator ... 3d. per proof gallon

(b) *Mineralised Meth. Spirit.*

—On dutiable spirit
used on exportation;
paid to methylator .. 3d. " " "

(c) *Duty Free Spirit.*—To

users at universities,
or in arts, &c.; Revenue Act, 1906, sect. 1,
and Finance Act, 1902,
sect. 8 3d. " " "

(d) *British Compounds* (in-

cluding Tinctures, &c.)
on exportation, or (ex.
11 o. p.) on deposit in
W. H. 5d. " " "

(e) *Plain British Spirits* ex-

ported, to exporter
from W. H. 3d. " " "

Excerpt from page 85, part 1.

3.—SPIRITS.—Drawback of the duties paid is payable to rectifiers and compounders on British compounds rectified or compounded from duty paid spirits, warehoused for exportation, ships' stores, or H. C., except B. compounds exceeding

11 o. p., liqueurs, tinctures, medicinal spirits or rectified spirits of wine; similar drawback is payable on B. C. exceeding 11 o. p., liqueurs, tinctures, medicinal spirits and rectified spirits of wine when warehoused for exportation or ships' stores, and on tinctures or spirits of wine exported or shipped as stores direct from the premises of a licensed rectifier or compounder. 43 & 44 V., c. 24, s. 95 and 6 Edw. 7, c. 20, s. 3. Payment will be made on receipt of certificate of deposit or of shipment, payment limited to two years from date of shipment, deposit, or use. C. I., pars. 483 to 490.

3a.—SPIRITS ALLOWANCE.—By section 1 of the Revenue Act, 1906, an allowance of threepence per proof gallon is granted in respect of spirits (other than methylic alcohol) received by any person for use in an art or manufacture under section 8 of the Finance Act, 1902.

A similar allowance is payable also in respect of spirits received duty-free at Universities, Colleges, &c.

An allowance of threepence per gallon at proof is granted to methylators on the quantity of dutiable spirits used by them in making *industrial* methylated spirits. The allowance is payable on the number of proof gallons certified by the surveyor and the officer to have been used in the methylation.

An allowance of threepence per gallon at proof is also granted to methylators on the quantity of dutiable spirits used in making *mineralized* methylated spirits exported. The allowance is payable on the quantity of mineralized methylated spirits actually shipped, less a deduction of one tenth of the whole, and surveyors and officers must see that

this deduction is made before filling in the certificate. 2 Edw. 7, c. 7, s. 8, and 6 Edw. 7 c, 20, s. 1. G. O., 20, '06.

Excerpt from page 165, part 1.

SPIRITS FOR USE DUTY-FREE AT UNIVERSITIES, COLLEGES, &c.—2 Edw. 7, c. 7, s. 8; 6 Edw. 7, c. 20; C. I. pars. 586 to 602. G. O., 20/06.

Application for Board's authority must be made by the governing body or their representative specifying premises, number of laboratories, purpose for which spirits are to be used, and quantity required annually. Should quantity amount to 50 gallons, sureties or a guarantee society to join in a bond for proper use of the spirits must be proposed.

Only P. B. spirits or unsweetened foreign spirits of not less than 50 o. p. may be received. The differential duty must be paid on foreign spirits, other than foreign methylic alcohol; and all spirits must be used at the institutions specified.

Spirits must be received under bond either from a distillery or from an Excise or Customs warehouse, and in quantities not less than 9 bulk gallons at one time (except with special permission). Spirits will be obtainable only on presentation of a requisition signed by the proper supervisor.

On receipt of spirits the proper officer must be advised, and vessels, casks, &c., are not to be opened until he attends to take account.

Spirits must be kept under lock in a special compartment under the control of some responsible officer of the institution, and may be distributed by him undiluted to any of the laboratories on the same premises.

An allowance of 3d. per proof gallon is granted in respect of spirits, received duty-free at Universities, &c., G. O., 20/06.

Excerpts from pages 42-44, Part 3.

Allowances on Spirits used in making industrial methylated spirits and on spirits received for authorised use duty-free under sec. 8 of the Finance Act, 1902, are to be paid by the Collector of the collection in which the methylated spirits are made, or in which the spirits are received for authorised use, as the case may be; those on plain and compounded spirits, and on methylated mineralized spirits exported, are to be paid by the Collector of the collection from which the goods are removed, or from which they are exported, or in which the person claiming the allowance resides, as the latter may elect. Except for certificates issued under par. 254, the officer must forward to the collector of the collection in which payment is requested a duplicate (Forms 532 or 549 C., 88-1, 89-1, or 89-3 E.) of the certificate (532a or 549C., and 88, 89, or 89-2 E.) given to the claimant. The allowances on spirits of wine and B. Compounded Spirits exc. 11 o. p. must be paid on deposit only, and in no case subsequently on use or exportation. Those on B. liqueurs, including Medicinal Spirits and Tinctures in casks are to be paid only on exportation, and on the quantity calculated in accordance with the strength as ascertained at the Laboratory. Clements Inn Passage, W. C. G. O. 74, 1906. C., 21, 1906. E.

18.—DRAWBACKS AND ALLOWANCES PAYABLE ON BRITISH SPIRITS.

The drawbacks are on spirits rectified or compounded from duty-paid spirits, and the allowances

in consideration of loss caused by the Excise Regulations. These are granted by law to distillers, rectifiers and compounders. Co. 41-2, 572-3, 575. G. O. 74, 1906 C.; 21, 1906, E.; 83, 1906, C.

(There follows a table showing the drawbacks and allowances payable on various classes of spirits, the authority therefor, etc., which does not need to be copied as the pertinent data therein also appears on pages 351-354 of the Imperial Tariff, Exhibit 4.)

Note.—By the word “exported” is also meant “shipment as stores.” Separate Certificates of Disposal should be issued for spirits exported, spirits shipped as stores, and spirits used in warehouse. On Form 532, totals only need be given. G. O. 71, 1900, C.—Ed.

Excerpt from page 86, Part 3.

A distiller may provide a warehouse on his own premises for warehousing spirits distilled *on the same premises*, without payment of duty.

Exhibit 3.**Harper's Manual, 1914.**

Excerpt from page 186.

Allowance.—A payment granted for British spirits on being deposited in warehouse, used in warehouse, or exported, to compensate the distiller and rectifier for cost due to Excise Restrictions.

British Spirits.—Spirits liable to a duty of Excise.

Compounded Spirits.—Spirits prepared from duty-paid spirits by a rectifier or compounder, by re-distilling or adding any ingredient or flavouring to them.

Plain Spirits.—Such as are in their original state, having had no artificial flavour communicated to them

Spirits.—All spirits, whether British or foreign.

Exhibit 4.**The Imperial Tariff, 1913.***Excerpt from pages 12-22.*

A TABLE OF THE
DUTIES OF CUSTOMS
payable on the following goods,
ON THEIR IMPORTATION INTO GREAT
BRITAIN AND IRELAND,
Under 39 & 40 Vict., cap. 35, and subsequent Acts.

	Imported in Casks. £. s. d.	Imported in Bottles. £. s. d.
SPIRITS AND STRONG WATERS:		
For every gallon computed at hydrometer proof of Spirits of any description (except Perfumed Spirits), including Naphtha or Methylic Alcohol purified so as to be potable, and mixtures and preparations containing spirits—		
Enumerated Spirits—		
Brandyper proof gallon	0 15 1	0 16 1
Rum " " "	0 15 1	0 16 1
Imitation Rum " " "	0 15 2	0 16 2
Geneva " " "	0 15 2	0 16 2
Additional in respect of sugar used in sweetening any of the above tested for strength, if sweetened to such an extent that the spirit thereby ceases to be an enumerated spirit—		
per proof gallon	0 0 1	0 0 1
Liqueurs, cordials, mixtures, and other preparations containing spirits, not sweetened, provided such spirits are not shown to be unenumerated; if tested, the proof gallon..		
	0 15 2	0 16 2
Unenumerated Spirits—		
Sweetened per proof gallon (Including Liqueurs, Cordials, Mixtures and other preparations containing Spirits; if tested.)	0 15 3	0 16 3
Not sweetened per proof gallon (Including Liqueurs, Cordials, Mixtures and other preparations containing Spirits, provided such Spirits can be shown to be both Unenumerated and Not sweetened; if tested.)	0 15 2	0 15 2
Liqueurs, Cordials, Mixtures and other preparations containing Spirits, in bottle, entered in such a manner as to indicate that the strength is not to be tested.....		
per liquid gallon	—	1 1 6
Perfumed spirits	1 4 1	1 5 1

The surtax is to be imposed upon wines or spirits imported in bottles of any size, or any other vessel (including kegs) of a capacity not exceeding two gallons.

Upon payment of the difference between the duties on Foreign and British Spirits, Foreign Spirits may be delivered under certain conditions for methylation, or for use in art or manufacture, but foreign methylic alcohol may be used in art or manufacture without the payment of this differential duty.

5. An obscured spirit is a spirit of which the specific gravity, corresponding to the relative amounts of the alcohol and water it contains, is affected by the presence of some substance in solution, and may be either Sweetened or Unsweetened Spirits. In the case, however, of such liquors as Absinthe or Kirschwasser, which are those as to which questions are most likely to arise, sweetening, within the above definition, may or may not have been added, and the fact can only be ascertained in each case by testing.

* * * * *

£. s. d.

—Additional on Foreign Spirits bottled in Bond for H. C. (43 Vict. c. 14.) (the dozen quarts or two dozen pints) 0 0 3

* * Upon the importation into Great Britain or Ireland of any articles in the manufacture of which spirit is used, there shall be charged in respect of such quantity of spirit as shall appear to the satisfaction of the Treasury to be used in the manufacture of such articles, a duty equivalent to that which would be chargeable on the like quantity of spirit on its importation into the United Kingdom.

Excerpt from page 33.

INLAND REVENUE DUTIES

• • • • •		
SPIRITS, home made, Gin, Whisky, &c.	f s. d.	
• • • • •	per proof gallon	0 14 9

Excerpt from page 105.

For Form of Stores authority, see G. O. No. 6, 1887. By this, the master or owner may authorize the shipment of such stores under the bond given by the store-dealer, and in case of British spirits so shipped, the bond given by the store-dealer is to be considered as the security upon which such spirits have been exported, and the allowances will then be payable to the giver of such bond, instead of to the master or owner of the vessel.—G. O. No. 6, 1887.

Excerpt from page 349.

2. 44 Vict. c. 12. s. 18.—The enactments in relation to goods liable to Customs duties in Customs warehouses have effect in relation to such goods in Excise warehouses; and those relating to goods liable to Excise duty in Excise warehouses have effect in relation to such goods in Customs warehouses.

Excerpt from pages 351-354.

8. DRAWBACKS AND ALLOWANCES.

Acts.	Description of Goods.	Rate.	
		Quantity.	Draw-back &c.
• • •	DRAWBACKS. • • • • •	• • •	• • •
43 & 44 Vict. c. 24	BRITISH SPIRITS.—On unsweetened British compounds at their strength as ascertained by Sike's hydrometer.	Proof gall.	£ s. d. 0 14 9
63 Vict. c. 7		" "	0 14 9
1 Edw. 7 c. 7	On British liqueurs, including all sweetened or otherwise "obscured" British compounds, tinctures or medicinal spirits, essences, and perfumed spirits, on the strength as ascertained on examination by distillation, or otherwise.	" "	0 14 9
	On spirits of wine rectified from duty-paid spirit.	" "	0 14 9
1 Edw. 7. c. 7.	On the duty-paid refined sugar contained in sweetened British compounds exported or shipped as stores.	the cwt.	0 1 10
	ALLOWANCES.		
48 & 49 Vict. c. 51	On British, plain spirits, exported, shipped as stores, or used in warehouse for fortifying wines, or for any other purpose to which foreign spirits may be applied.	Proof gall.	0 0 3
Edw. 7. c. 7.	On rectified spirits of wine, on deposit by a rectifier.	" "	0 0 3
48 & 49 Vict. c. 51	On British compounds, exceeding 11 O. P., on deposit by a rectifier.	" "	0 0 5
52 & 53 Vict. c. 42	On British compounds, not exceeding 11 O. P., on being exported, shipped as stores, or used in warehouse.	" "	0 0 5
2 Edw. 7. c. 7.	On British liqueurs, tinctures or medicinal spirits, essences, and perfumed spirits, on exportation or shipment as stores.	" "	0 0 5
48 & 49 Vict. c. 51	On mineralised methylated spirits, exported, an allowance on the quantity of dutiable spirits used in the manufacture thereof.	" "	0 0 3
2 Edw. 7. c. 7.	On British plain spirits, Foreign unsweetened spirits, and rum, or imitation rum, used for the manufacture of industrial methylated spirits.	" "	0 0 3
6 Edw. 7. c. 20	On spirits (other than methylated alcohol) received for use duty-free under section 8 of the Finance Act, 1902.	" "	0 0 3

Excerpts from pages 355-357.

DEFINITIONS AND TERMS USED IN THESE REGULATIONS.

9. Board.—Either the Commissioners of Customs or Inland Revenue, according to the connection in which the word is used.

13. Warehouse.—A secure place approved by the Board, for the general service of the public, for the deposit of dutiable goods on which the duty has not been paid. The term includes general warehouse, bottling warehouse, re-packing warehouse, and vault, except when any of these are specifically named.

23. Compounded Spirits.—Spirits prepared by a rectifier or compounder by re-distilling duty paid spirits with flavouring ingredients, or adding to them any flavouring materials.

24. Liquers, and Tinctures or Medicinal Spirits.—Compounded spirits, the ingredients in which interfere with the correct action of the hydrometer. British liqueurs may be deemed to include all sweetened, or otherwise “obscured,” British compounds, including essences and perfumed spirits, of which the true strength cannot be ascertained without distillation.

(a) Industrial methylated spirits—spirits which have been methylated with at least one-nineteenth of their bulk of approved wood naphtha, and (not being mineralized methylated spirits) are intended for use in any art or manufacture within the United Kingdom.
(See par. 425.)

(b) Mineralized methylated spirits—spirits which in addition to being methylated with at least one-ninth of their bulk of approved wood naphtha, have mixed with or dissolved in them three-eighths of one per cent, by volume approved mineral naphtha.

25. Sweetened Spirits.—The term, as applied to spirits imported in bottles, means a spirit to which any matter has been added after distillation, which imparts to it the quality of sweetness, and produces obscuration to the amount of over 6 per cent.

27.—Obscuration.—The difference, caused by matter in solution, between the true strength of spirits and that indicated by the hydrometer.

28. Vatting.—Putting together wines or spirits into a vat or large vessel to obtain uniformity of character.

29. Blending.—Putting together wines or spirits of similar sorts.

30. Mixing.—Putting together wines or spirits of different sorts.

31. Racking.—Drawing off wines or spirits from one cask or vessel into another.

32. Filling.—The making good of natural waste in casks of wines or spirits by the addition of liquor of the same or a similar kind.

41. Drawback.—A repayment of the duty upon certain goods on exportation, or on deposit in warehouse.

42. Excise Allowance.—A payment in respect of British spirits exported, deposited, or used in warehouse, to compensate distillers and rectifiers for the extra cost of manufacture due to Excise restrictions, or in respect of British or Foreign

spirits used in the manufacture of industrial methylated spirits, or received for use duty-free under section 8 of the Finance Act, 1902.

Excerpt from page 360.

FRAUDS IN WAREHOUSE.

64. It is illegal for the proprietor of goods, or a warehouse-keeper, by himself or by any person in his employment or with his connivance, to open or gain access to a warehouse except in the presence of an officer acting in the execution of his duty, or to abstract goods from any warehouse.

65. The warehouse-keeper is liable to a penalty if the goods are fraudulently concealed, or removed from a warehouse without payment of duty, or abstracted from any package, or if spirits are abstracted from the wood of empty casks while in warehouse. All such goods are forfeited, and should, when practicable, be seized.

66. The surveyor or supervisor is, without delay, to report any case of suspected fraud.

67. Surveyors, supervisors, and officers are on no account to secure the doors and leave any person in a warehouse.

Excerpts from pages 399-400

224. British plain spirits are first received into a general warehouse from a distillery warehouse. They are accompanied by a distillery permit, and a despatch is received by post.

225. British compounds, rectified spirits of wine, British liqueurs, and tinctures, in casks, on being

removed to a warehouse by a licensed rectifier or compounder, on drawback, are to be accompanied by an Excise certificate, written by the rectifier or compounder, and endorsed by the officer surveying the premises with, as far as applicable, the following particulars, viz. :—

Mark.

No.

Full content.

Bung.

Wet inches.

Ullage Galls.

Temp.

Strength.

Gallons at

Proof.

Description
of Spirits.

Date.

Officer's Signature.

The officer is to forward to the warehousing station a despatch (Form No. 100-5 Excise) which must be adapted to the circumstances of the case. The rectifier must also send to the officer of the warehouse an entry or notice specifying the particulars shown in the certificate accompanying the spirits, and, when drawback is claimed on the sugar, declaring the quantity of duty-paid refined sugar per liquid gallon contained in sweetened British compounds.

226. In the case of British liqueurs (including sweetened British compounds) and tinctures, the rectifier must specify, instead of the strength as

denoted by the hydrometer, the actual number of gallons at proof from which the contents of each cask were compounded.

227. Except in the case of British compounds not exceeding 11 over proof the rectifier's certificate must be endorsed by the officer with the words "exportation or ships' stores only."

233. The first warehousing, actual or constructive, of British plain spirits liable to Excise duty is in a distiller's warehouse, and they are received into a general warehouse on a despatch.

234. The first warehousing of rectified spirits of wine, compounded spirits, liqueurs, and tinctures, in casks, is in a general warehouse from a rectifier's or compounder's stock, on a certificate, despatch, and warehousing entry or notice.

Excerpt from page 404.

261. Officers in charge of warehouses are to guard against the warehousing, on drawback, of British plain spirits under the designation of British compounds, and should any spirits about to be warehoused as British compounds resemble plain spirit with its character only slightly changed, samples must be forwarded to the Government Laboratory, and the Board's directions requested.

Excerpts from pages 405 and 406.

265. When spirits of wines in cases removed under bond are received into warehouse, it will be sufficient to open and examine one package in every ten bearing the same mark. The officer must be careful, however, to exercise an absolute discretion

as to the particular packages selected for examination, and he must select some which have not been previously examined. If in the packages opened any irregularity be discovered, or if the warehouse-keeper declines to accept the despatch quantity, every package of the consignment may be examined.

266. When the goods thus received are contained in cases fastened with tape or wire secured by a revenue seal, and are so advised in the despatch, one package only in each consignment need be opened and examined.

267. When the packages contain spirits and are found to be regular as regards the number and description of bottles therein, it will be sufficient to test the quantity and strength from one or two bottles in every 100, or less than 100, packages of a consignment, in order to ascertain whether there has been any tampering. In the case of small consignments it will not be necessary to open a bottle when the officers are satisfied that there has been no tampering.

268. When the packages contain wine none of the bottles need be opened unless fraud is suspected.

269. If any material discrepancy be discovered or any of the cases appear to have been tampered with in transit the particulars are to be reported to the Board.

270. Cases of wines or spirits which have been thus examined are not required to be examined again before delivery for home consumption, but if delivered for removal to another warehouse one or more packages must be re-examined to see that the number of bottles therein is correct. When delivered for exportation, one package in twenty,

or in any number less than twenty, need only be so examined when the officer is satisfied that the cases have not been tampered with. The contents of the bottles need not, however, be tested in any case unless there is cause to suspect fraud.

271. The surveyor or supervisor must re-examine some of the packages opened by the officer, and occasionally select, for examination by himself, one or more packages which have not been previously opened. The result should be noted in the register.

Excerpt from pages 415-418.

OPERATIONS IN WAREHOUSE.

Mixing.

321. Wines, or foreign spirits not sweetened or mixed, of different sorts, may be mixed together for exportation only. This operation may be effected under the regulations prescribed generally for vatting and blending, but the word "mixed" must be entered in the accounts, and be marked on one head of each cask containing the mixed liquids, and all marks, brands, and particulars of importation must be erased. (*See par. 210.*)

322. The proprietor's name may be marked upon casks of such mixed wines or spirits, and the officer is to note in his operations register that the packages have been so marked. The proprietor may also place on the casks his known brand or trade-mark, not being a quality mark or a mark in any way calculated to give a false character to the goods. (*See par. 210.*)

323. British plain spirits may be mixed for exportation with foreign spirits not sweetened or mixed, and the produce is to be described in the accounts as "British and foreign spirits mixed in bond," the casks being marked as directed in par. 321. But British plain spirits may not be mixed with foreign sweetened spirits, nor British compounded spirits either with foreign spirits, or with any compounded spirits of a different denomination.

324. Rum, or imitation rum, and other foreign spirits when mixed together are to be described in the accounts as "foreign spirits of various sorts mixed in bond," the casks being marked as directed in par. 321.

325. Wines from the same country or growth, but of different commercial designations (such as port, sherry, claret, hock, &c.) are, when vatted or blended, to be deemed of different sorts and to be described and marked as directed in par. 321.

326. British compounds exceeding 11 o. p., on which the allowance has been paid, may be mixed, for exportation only, with British compounds not exceeding 11 o. p., and the allowance of 5d. a gallon may be paid on the latter according to the account thereof taken immediately before the operation. When the spirits are removed the words "for exportation only" and "allowance paid" must be written in bold characters on the despatch. (*See* par. 563.) Should spirits of wine, on which the allowance has been paid on deposit, be at any time mixed with plain British spirits, the allowance payable on the exportation of the latter is to be determined as directed above but the spirits will be inadmissible for home consumption.

327. The Board's special permission is required for the mixing of foreign spirits or liqueurs, so sweetened or mixed that the strength cannot be ascertained by Sike's hydrometer, with spirits not so sweetened or mixed, such as brandy, rum, &c.

Fining, Sweetening, Colouring, Filtering, and Reducing.

328. The operations of fining, &c., may be performed in warehouse under the following regulations, but no unusual materials or chemical preparations for flavouring, or for altering the character of wines or spirits may be used therein.

329. Common finings such as Spanish earth, albumen, patent finings not sweetened, isinglass, milk, &c., may be added to wines not exceeding 42 degrees of strength for home consumption, in any quantity and as frequently as the merchant may deem necessary, and whether the wine be contained in original, or in vatted, blended, or racked casks. The operation is to be performed under the supervision and in the presence of the officer, who is to exercise the greatest care that the wine is not thereby reduced from a higher to a lower rate of duty, and should such a result appear probable the Board's directions must first be obtained. This transaction need not be entered in the accounts unless the rate of duty is affected.

330. Wines exceeding 42 degrees of strength can be operated upon only with the sanction of the Board.

331. Capillaire or sweet finings may be added to wines for home consumption, in a proportion not exceeding one per cent, and with the sanction of the Board a greater percentage may be added for

exportation only. The same proportion may be added to spirits for exportation. The percentage must be recorded to one-tenth, and in either case the description will not be altered. (*See* par. 337.)

332. Colouring or sweetening matter may with the Board's sanction be added to wines of different sorts mixed in warehouse for exportation. The merchant must state in his application the quantity or proportion of sweetening or colouring matter proposed to be added. The casks must be re-examined both prior to and after the operation, and they are to be marked "mixed and sweetened wines," the goods being also so described in the warehouse books and documents with the addition "for exportation only." (*See* par. 210.)

333. Foreign spirits may not be fined, sweetened, or coloured for home consumption, and they may not be compounded for any purpose whatever. They may, however, be filtered, and rum, or imitation rum, may be fined with milk. British spirits may be filtered in a bottling compartment or in a vatting compartment, after being reduced.

334. Colouring matter in a fluid state may be added to British spirits for home consumption in the proportion of one pint to every 80 gallons, on the distinct understanding by the proprietor that the addition of colouring shall not be a ground for altering the usual allowances, and that it shall not change the denomination of the spirits.

335. When colouring matter has been added to British spirits a statement of the circumstances must be made in the account in the register, and on all subsequent removals the fact that the spirits have been so coloured and the proportion added must be stated in the despatch.

336. Ordinary colouring matter, at the merchant's discretion as to quantity, may be added to spirits in a vat when they are intended for exportation only, or it may be added to spirits in casks for exportation, but in this case the addition is to be made only after the delivery account for shipment has been taken, and a note of the addition is to be made in the book in which the delivery account is recorded.

337. British spirits for exportation or ships' stores may have any sweetening or colouring matter, or any other ingredient, added to them in warehouse by a distiller or rectifier. The spirits must, except as provided for in par. 336, be removed into a separate room or compartment having no communication with the other part of the warehouse, except by a door under Crown lock. (*See* par. 331).

338. When British compounds not exceeding 11 o. p., not described in the warehouse entry as liqueurs, are warehoused and afterwards coloured and sweetened for exportation, and drawback on the sugar is not claimed, a sample of the spirits thus operated on must be sent to the local laboratory, or testing office, and the account dealt with as directed in par. 339. The allowance of 5d. a gallon on the spirits so coloured and sweetened must not be paid until a certificate of actual exportation is received from the Customs. (*See* par. 573). If British compounds of any strength are sweetened after deposit in warehouse, and the trader declares on the operation notice the quantity of sugar in each liquid gallon, the sample must be sent to the Government Laboratory, Clement's Inn Passage, Strand, W. C.

339. When spirits have been sweetened or coloured in warehouse so that the strength cannot be ascertained by the hydrometer, a sample is to be sent to the laboratory, or testing office, to be tested by distillation. The account is to be set out and balanced at the strength shown by distillation, but should the spirits be required for exportation before this has been ascertained, they may, on the merchant's request, be delivered, the delivery account being shown at the strength determined by calculation and the operation account subsequently adjusted and balanced at the strength found by distillation. In all such cases, the hydrometer indication is to be given on the despatch. (See paragraph 562.)—G. O. 45, 1904.

340. Spirits may be reduced in warehouse with water for bottling, exportation, or stores, or for fortifying purposes. Spirits so reduced may be re-warehoused under the ordinary regulations as to allowances for waste, but are inadmissible for home consumption except in bottles. Spirits may also be reduced in bottling warehouses in accordance with par. 379. When water is to be added to spirits in casks, as much spirit may be drawn off from each cask as is required to make room for this purpose. The over-drawings if of legal bulk may be re-warehoused, but if less than nine gallons they must either be used in another operation or cleared on payment of duty, though otherwise inadmissible. The casks containing the overdrawings must be numbered and marked as directed in pars. 312, 315, and 319.

Excerpt from pages 420-422.

FORTIFYING FOREIGN WINE.

354. Wine in casks may be fortified in warehouse for home consumption with spirits to the extent of 10 proof gallons of spirits to 100 gallons of wine, provided the wine be not thereby raised to a greater strength than 40 degrees proof spirits. The strength of wine for home consumption must not be raised beyond 40 per cent. of proof spirits. The officer is responsible that the proportion of ten per cent. is not exceeded, and that such percentage is calculated according to the quantity of wine actually in the cask or vat at the time of the operation. He will take the re-examination account and superintend the addition of the spirits. The contents of the cask or vat must be thoroughly mixed and a sample sent to the laboratory, or testing office, for the purpose of ascertaining the strength.

354A. In the case of wine fortified in cask a sample for test may be drawn from one cask in ten, or fraction of ten casks in each operation, instead of from each cask, under the following conditions:

- (a) That the officer is satisfied that the wine is uniform in character.
- (b) That practically the same proportion of proof spirit is added to each cask.
- (c) That the calculated strength of the wine in each cask after fortifying does not exceed 29 degrees in the case of wines entered as n. e. 30 degrees and 39 degrees where entered as n. e. 42 degrees.

- (d) That should the test of the wine in any cask after fortifying show the strength to be short of 30 degrees by not more than 5-10th of a degree, or, in the case of the stronger wines, to be 5-10th of a degree or less short of 40 degrees, the whole of the casks in the operation be subjected to test.
- (e) That in every case the request for operation be granted subject to a sample for test being drawn from each cask if considered necessary.

The sample advice forwarded to the Laboratory must show the particular cask or casks sampled, and in respect of each cask in the operation the number, the bulk gallons, and actual strength of the wine, the quantity of wine drawn off, the bulk gallons and strength of the spirit added, and the calculated strength of the wine after fortification.
—G. O. 24, 1908.

355. Spirits used for fortifying wine are to be deducted as proof from the spirit account and transferred as liquid to that for wine, and the whole bulk of fortified wine is to be treated as wine whether for home consumption or exportation.

356. Wine may be fortified to a strength beyond 40 degrees for exportation only, upon an application to the Board showing, to their satisfaction, that such fortifying is absolutely necessary for the preservation of the wine. In all such instances the officers must report whether the wine has been previously fortified and to what extent, and ascertain and report the actual strength of the wine together with their opinion as to the necessity for the additional fortifying.

357. Wine fortified with not more than 10 per cent. of proof spirits, but unintentionally raised above 40 degrees, may not be delivered, even for exportation, without the Board's sanction.

358. The spirits allowed to be used for fortifying are—

Foreign spirits unsweetened,

Foreign spirits unsweetened mixed in bond for exportation,

British plain spirits,

Spirits of wine,

all of which may be reduced for this purpose with water to any degree of strength not below proof.

359. The following spirits may not be used to fortify wine in bond, viz.:

Foreign spirits so sweetened or mixed that the strength cannot be ascertained by Sike's hydrometer,

British spirits sweetened or compounded.

360. Only so much wine may be removed from a cask as is necessary for the admission of the spirits required for fortifying, having due regard to the usual ullage, but wine may not be taken from a cask where such removal is not absolutely necessary. Wine so removed is to be either cleared by payment of duty, or used in another operation.

FORTIFYING BRITISH WINE.

361. British wine in casks intended for immediate exportation may be fortified with spirits on the following conditions, viz.:

- (a) That the wine be brought in casks to a warehouse duly approved for the purpose, but that it be neither manufactured, bottled, nor labelled in warehouse;

- (b) That the quantity of spirits be limited to 10 per cent.—i. e., 10 proof gallons of spirits to 100 gallons of wine;
- (c) That the wine when fortified be delivered for exportation only;
- (d) That the quantity of spirits mixed with the wine be entered on the warrant and export documents.

362. Should it be desired to fortify such wine beyond 10 per cent., a special application must be made to the Board showing that the additional fortifying is absolutely necessary for the preservation of the wine on the voyage, but the strength must not be raised above 40 degrees.

363. British cider and perry may be fortified to the same extent and on the same conditions as British wine.

FORTIFYING LIME OR LEMON JUICE.

364. Lime or lemon juice may be fortified in warehouse for exportation or ships' stores at the expense of the merchant under the following regulations.

Excerpt from page 428.

PERFUMING SPIRITS.

402. British spirits not being compounds, foreign spirits—except sweetened spirits and mixtures or preparations containing spirits—and foreign perfumed spirits, may be perfumed and bottled in warehouse for exportation or stores, or for exportation from a Customs warehouse by parcel post.

Excerpt from page 446.

495. As the sole purpose for which a bonded warehouse is approved is the secure keeping of dutiable goods until the duty is paid or the goods are exported, subject to any permissible operations thereon, warehouse-keepers and owners of bonded goods must be made to understand that the payment of duty entails an obligation to remove forthwith from bonded premises the goods in respect of which such duty is paid.

Excerpt from page 447.

500. The following may not be delivered for home consumption, viz. :

- (a) Spirits to which any sweetening or colouring matter has been added in warehouse except as provided in par. 334.
- (b) Spirits of wine from rectifiers or compounders.
- (c) Foreign spirits of different sorts, or foreign spirits and British spirits, mixed in warehouse.
- (d) Compounded sprits of a strength exceeding 11 degrees over proof.
- (e) Spirits, in cask, that have been reduced with water in warehouse.
- (f) British liqueurs, and tinctures or medicinal spirits.
- (g) Spirits perfumed and bottled in warehouse.
- (h) Wine fortified in warehouse to a strength exceeding 40 degrees, unless on re-testing it is found not to exceed 40 degrees.

- (i) Wine found on importation to be of 45 degrees of strength and upwards is not to be delivered without the Board's authority.
- (j) Wine mixed or bottled in warehouse. (*See* pars. 321 and 378.) For exception, *see* par. 352.

Excerpt from page 460.

DRAWBACKS AND ALLOWANCES.

ISSUE OF CERTIFICATES, &C. FOR PAYMENT.

572. Allowances of 3d. the proof gallon on British plain spirits and rectified spirits of wine, and 5d. the proof gallon on British compounded spirits, tinctures, essences, and perfumed spirits, are granted by law to distillers, and to rectifiers or compounders. An allowance of 3d. the proof gallon is granted (a) to methylators on the quantity of dutiable spirits used for making industrial methylated spirits and also on the quantity used for making *mineralized* methylated spirits *exported* by them; and (b) to persons authorized to receive spirits (other than methylic alcohol) duty-free in respect of the quantity received by them for use under section 8 of the Finance Act, 1902. (*See* par. 8.) The time for payment of any of these allowances is limited to a period of two years from the date of shipment, use, deposit, or receipt.

573. Certificates authorizing the payment of these allowances may be issued on the conditions specified below, and for the actual proof quantity of spirits deposited, used, exported, or received, as the case may be. The proprietor must in each in-

stance make a written application for the certificates (a), (d), and (e) mentioned below. For spirits removed to the Isle of Man, the Customs receipt must be obtained from the island before the certificate is issued. These certificates are to be issued, in the case of spirits exported or shipped as stores, to the person who shall have given security for such exportation or shipment, and in the case of spirits used in warehouse, to the person upon whose written request the spirits were so used.

Description of Spirits.	Allowance per proof gallon.	Conditions under which allowance is payable.	On what certificate payable.
(a) British plain spirits.	d. 3	On being exported, shipped as stores, or used in warehouse for fortifying wines or for any other purpose to which foreign spirits may be applied.	Nos. 532 and 532a Customs
(b) Rectified spirits of wine.	d. 3	On deposit in warehouse by a rectifier.	Nos. 88 and 88-1 Excise
(c) British compounds exceeding 11 o. p.	5	" " " "	Excise spirit certificate. (See par. 254.)
(d) British compounds not exceeding 11 o. p.		On being used for fortifying lime or lemon juice, or for any other purpose for which foreign spirits may be used, or on being actually exported or shipped as stores.	Nos. 532 and 532a Customs.
(e) British liqueurs, medicinal spirits and tinctures, in casks.	5	On being exported or shipped as stores.	Nos. 88 and 88-1 Excise.
(f) British tinctures, essences, and perfumed spirits, in bottles.	5	On production of Laboratory certificate as to strength, and Customs certificate as to exportation.	Nos. 532 and 532a Customs. Nos. 88 and 88-1 Excise. Form No. 111-6 Excise.
(g) Dutiable spirits used in making mineralized methylated spirits.	3	On being exported direct from the place of methylation.	Nos. 88 and 88-1 Excise.
(h) British plain spirits, or Foreign unsweetened spirits, Rum, or Imitation Rum.	3	On being used for making industrial methylated spirits.	Nos. 89 and 89-1 Excise. Nos. 548 and 549, Customs.
(i) British plain spirits, or Foreign unsweetened spirits (other than methyllic alcohol).	3	On being received for use duty-free under section 8 of the Finance Act, 1902.	Nos. 89-2 and 89-3 Excise.

Excerpt from page 462.

574. Certificates for allowances are not to be issued for rectified spirits of wine, nor for compounded spirits exceeding 11 per cent. over proof, when exported or used in bond, the certificates having been issued on their deposit in warehouse. (See par. 563.)

